MISSISSIPPI LAW JOURNAL

PROCEEDINGS

MISSISSIPPI STATE BAR

Thirty-Sixth Annual Meeting

INDEX FOR VOLUME XIII

September, 1941

VOLUME XIII NUMBER 5

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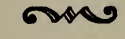

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Mississippi Law Journal

JOURNAL of the MISSISSIPPI STATE BAR

VOL. XIII September, 1941 No. 5

CONTENTS

DIRECTORY TO PROCEEDINGS

Addresses

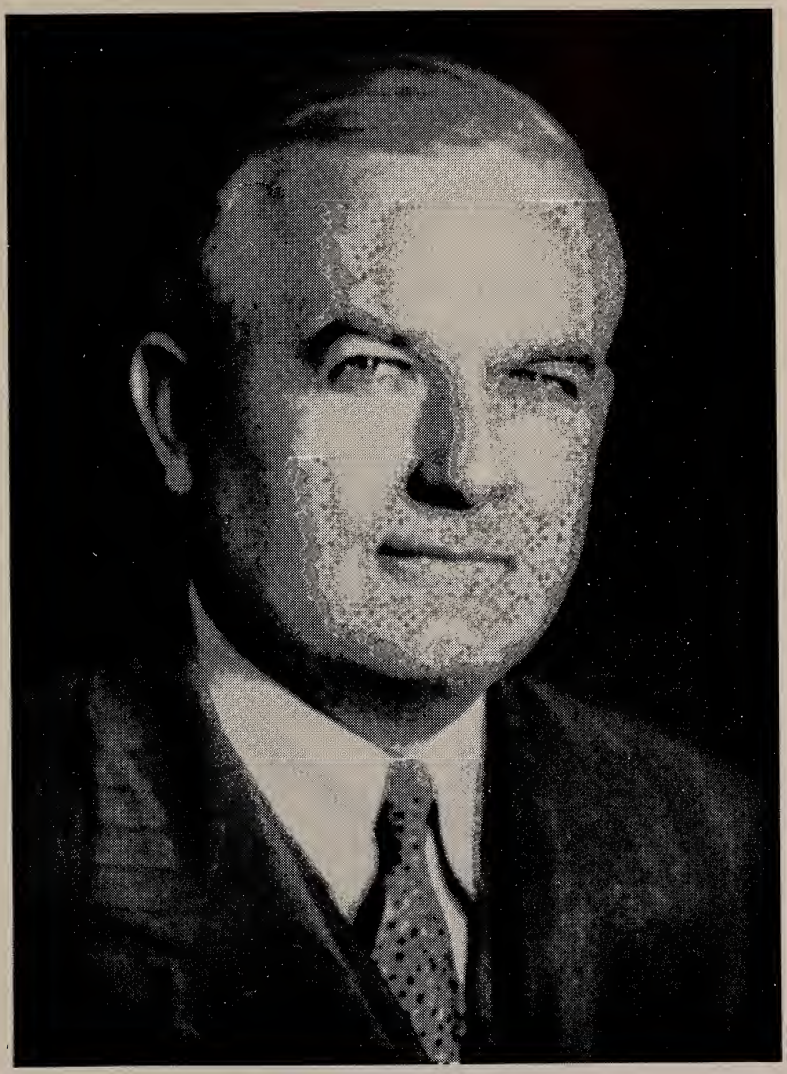
The President's Address 661
Arthur A. Marino, *The Old Order Changes* 671
Jerome A. Cooper, *The Wage and Hour Law* 705
A. B. Butts, *The Lawyer of Tomorrow* 714
James M. Landis, *The Challenge to Traditional Law in the Rise of Administrative Law* 724
Sam M. Johnston, *The Present Duty of the Lawyer* 735
Hugh N. Clegg, *The F.B.I. and National Defense* 754

Reports

Committee on Public Relations 694
Study Committee 696
The American Law Institute 698
Committee on Membership 701
Complaint Commissioner 702
Mississippi Law Journal 703
Committee on Finance 703
Junior Bar Section 710
Committee on Admission to the Bar (*Jr. Bar*) 740
Committee on Legislative Drafting (*Jr. Bar*) 742
Committee on Pleading, Practice and Procedure (*Jr. Bar*) 747
Committee on Cooperation with Young Lawyers (*Jr. Bar*) 749
Committee on Public Relations (*Jr. Bar*) 750
Code Committee (*Jr. Bar*) 761

Resolutions and Declarations of Policy

Recommendations by Committee on Jurisprudence and Law Reform 688
A Condemnation of Subversive Elements 692
Anti-Strike Legislation 693
Senator Pat Harrison (*Jr. Bar*) 734
En Banc Hearings by the Supreme Court 751
Publication of a New Code 751
Statement of the Newly Elected President of the State Bar 771
Statement of the Newly Elected Chairman of the Junior Bar Section 772
Audit of Accounts and Finance 777
Directory to Members of the Mississippi State Bar 782



W. E. MORSE

Retiring President of Mississippi State Bar

PROCEEDINGS OF THE THIRTY-SIXTH ANNUAL MEETING OF THE

Mississippi State Bar

Held in the City of Gulfport, Mississippi, on the 26th and 27th of June, 1941

The convention was called to order by Mr. W. E. Morse, President of the Mississippi State Bar.

Judge Sydney Smith delivered the invocation.

Short addresses of welcome were delivered by Mayor J. W. Milner, representing the City of Gulfport, and Mr. George R. Smith, representing the Harrison County Bar. Mr. Elbert Johnson, Vice-President of the Mississippi State Bar, delivered the response to the addresses of welcome.

The chair then presented Mr. W. A. Ellis who read his annual poem dedicated to the city in which the convention was assembled and a poem dedicated to Mr. Charles Engle of the Natchez Bar.

MISSISSIPPI STATE BAR

GULFPORT, MISSISSIPPI

Friends and brethren, far sojourners,
Wise men, hunting fun and fees,
Gathered here from all four corners,
Lawyers, scribes and Pharisees.

Hypocrites, some people call us,
When we're on the other side,
But how often they compel us
To remove our neighbor's hide!

Lawyers, judges, legal leaders,
Members of our Bench and Bar,
Seafood eaters, special pleaders,
Seniors, Juniors, here we are.

On the shores of Mississippi,
On the Sound that bears its name,
There's a model, modern city,
Known to honor, wealth and fame.

Growing eastward, westward, northward,
All along the coastal line,
Young, progressive, marching forward,
In the land of long leaf pine.

Where the foaming waves of ocean,
Beat upon the glitt'ring strand,
While you see with deep emotion,
Panoramas on each hand.

Where the sea fowls lowly flying,
Utter plaintive, lonely cries,
Voices calling, softly sighing,
While the fading day-light dies.

Famous for its lovely beaches,
Harbor, ship canal and piers,
Hardy, Jones and faith that reaches
Present, past and future years.

High along the Riviera,
Far and wide along the shore,
Stands the modern Gulfport City
Famous now forevermore.

Rising up like Aphrodite
From the white foam of the sea
Gulfport stands erect and mighty,
Beautiful, yet brave and free.

Home of all we love and cherish,
Schools and churches, civic pride,
May her visions never perish,
But improve with time and tide.

Live, O Gulfport, life forever,
Here's a toast to thee and thine;
Forward, march in high endeavor
While the stars of heaven shine!

NATCHEZ AND CHARLIE IN DACTYLIC MEASURE

Natchez is famous in song and in story
For her fine homes that are known from afar,
Wealth and refinement reflecting her glory
Illuminated by great Bench and Bar.
Charlie's a lawyer beside the great river,
Eloquent, powerful, wise, unafraid,
Like the great Prentiss, he'll shine on forever
Bright with a glory that never can fade.

W. A. Ellis

President Morse announced that the next item on the program was the President's Annual Address. Prefacing his remarks with a eulogy of Senator Pat Harrison, he delivered the following address.

THE RESPONSIBILITY OF THE LAWYER

W. E. Morse

It has been said that:

> "The greater the responsibility, the greater the obligation to discharge that responsibility."

I think that this is one of the principal reasons why the public in general expects so much out of legal fraternities, and why it is so caustic in its criticism when some brother goes wrong.

The laws are for the purpose of guiding and building people in the relation with each other, so that they may live together in an organized society without conflict.

There are certain fixed, definite laws that govern the universe. Such laws cause the change, from year to year, from spring to summer, and from fall to winter—from day to night.

There are also certain fundamental laws of health, the violation of which causes sickness and death. Such a law is the law of cause and effect. We produce corn from corn, and cotton from cotton seed, and it is just as true today as it was in the ancient time when it was said:

> "Men do not gather grapes from thorns, nor figs of thistles."

Speaking of man-made laws, Aaron Burr said:

> "Law is that which is boldly asserted and plausibly maintained."

I think that any lawyer would agree that this is a cynical conception of a law and not the true and accepted version that we have of it.

If legal ethics means nothing more than a protective tariff in favor of the bar; if we are to be regarded as the spokesmen of the specially privileged—if our chief claim from public admiration is our agility in making the worse cause appear the better, then, as a great profession, we are lost, and we cannot hope to maintain our leadership.

Dr. Heddleston, one of the greatest men that this state ever produced, was an instructor at the University of Mississippi. He used an illustration to demonstrate the law of cause and effect.

He said that if you were to take the Twenty-third Psalm and cut it up into bits so that each word would be separate, and that if you then put the pieces in some receptacle and shook them up and then poured them out, they could not rearrange themselves in ten million times in the form of the Twenty-third Psalm. You could never get the beauty and comfort of this

remarkable psalm through mere chance. It is one of the things which did not just happen.

The fundamental laws of our country are embodied in our constitution. The constitution of the United States and various state constitutions did not just happen. They are the outgrowth of years and years of thought, toil, trials and tribulations. They represent the experience of men. The expressions therein contained are polished by use and by court interpretations. The phrases and ideas embraced in the constitution were largely put there by men of the legal profession. During the time when some of these instruments were being formed, Patrick Henry stated:

> "I have but one lamp by which my feet are guided, and that is the lamp of experience. I know of no way of judging the future, but by the past."

We know that our Constitution embodies our concept of democratic government, which is three separate and distinct departments—the executive, legislative and judicial.

Law is the machinery of government. It is the skeleton of all ownership of property, of property rights, and for protection of personal property, and from encroachments, either by individual groups or government.

The lawyers are in the driver's seat in our form of government. They dominate the judicial, they predominate in the legislative and in the executive branches of the government. They therefore have the guiding hand in the affairs of government, business, and in the lives of men and women. Lawyers are quick to sense that something is wrong with the machinery of government. There is no group of men who has more influence and control of government than lawyers. Neither is there any group who renders more unselfish service.

There are some who say that the lawyers are parasites; that they are the fifth wheel of an automobile; that they stir up strife; that they run their hands in the other fellow's pockets, instead of their own; that they love strife; that they love to cloud their meaning in long documents; that they can run faster than an ambulance; that they put catch phrases in small writing in insurance policies, so that the purchaser does not know what happens at the time he buys a policy, or at the time he pays a premium; that they are paid soldiers with no love of their cause, but only for the fee they receive. This is a biased, and not the true, picture.

When I hear such criticisms, I think of the little couplet that was the basis of a slander suit in our own state court, styled: *Hines v. Shumaker,* 97 Miss. 669. The couplet ran something like this:

> "In the mud and scum of things,
> Something always, always, sings."

Or it may be expressed in the old statement that:

> "No man ever felt the halter draw,
> with good opinion of the law."

Two-thirds of the presidents of the United States have been lawyers; twenty-five signers of the fifty-six who signed the Declaration of Independence were lawyers, and all of the words of that immortal document were the words of lawyers. Of the fifty-five who participated in the preparation of the original Constitution of the United States, thirty-two were lawyers; of the forty-seven Secretaries of State who served during the five times the United States have been in war, forty-four were lawyers. All of you know the number of lawyers that we have had as governors, and you further know of the wonderful service rendered by lawyers in upholding the institutions of our government.

The President himself is a lawyer; his closest advisers and confidants are lawyers. Lawyers predominate in the United States Senate and the House of Representatives; and only lawyers sit in the Supreme Court of the United States. You will find that, in the legislative halls over all the country, as well as in our own state, the legal profession predominates.

The lawyer sits with your banker, your business man; the workman is his friend. The doctor consults with him; and even ministers and priests are proud to be seen with him.

We have never had a Hitler, a Stalin, a Mussolini, or a Napoleon in the Anglo-Saxon history, for the simple reason that we have followed principles instead of leaders. Our government is based upon fundamental principles of individual freedom—life, liberty, and the pursuit of happiness. When we abandon this practice, we abandon our form of government. It is a terrible thing to be in a place of responsibility at times like these, when we look about us and see that free governments are disappearing from the earth; especially when we examine our own country, and see the causes that have worked destruction of liberty in other nations at work here.

If our democracy is to survive with its law and liberty, it will be because our people have faith and confidence in our courts, from the highest to the lowest. It is not enough for us to tell the people that the courts are the bulwark of individual freedom. The people must have such confidence in the ethics, justness and system of our courts, as a matter of everyday experience, that in times of stress they will instinctively feel safe in resorting thereto in the vindication of their rights. But this means nothing unless both judges and lawyers constantly remember that the courts exist, not for the benefit of the judges and lawyers, but for the benefit of the litigants and public.

There never was a time when it was more important to have independent and courageous judges than at the present time. We stand practically alone among the civilized nations of the world in continuing, in most of the United States, the elective system for the selection of judges. There can be no substitute in the field for an upright, courageous bar, and a vigilant public. Equally vital is the problem of jury selection. What good is it for a litigant to have the ablest counsel, if his case must be tried by a jury selected by politicians for political purposes?

The stability of our government is dependent on our judiciary. They must be independent. One of the best ways to keep them independent is for the legislature to provide for their retirement, when they have served a given number of years, if they so desire. The Federal Government and many states have such a program. We have recently witnessed how it works in the United States Supreme Court. Such a program, if sponsored by the bar, would pass the legislature and would go a long way towards instilling a sense of security and a sense of independence in the judiciary.

Civilization and society are on the move and they are moving fast. Where we are headed, no one can give a satisfactory answer. To meet these changing conditions, the laws must move with them. We find courts giving new interpretations to old decisions—legislators enacting new laws, all to aid civilization in its progress to meet the changing demands and the needs of a constantly changing civilization.

I was very much interested in an article by Arnold A. Hersburg in the May, 1941, copy of the American Bar Association Journal, under the title of "The Situation of a Lawyer in Germany." Mr. Hersburg was a practicing lawyer in Germany. He was forced to abandon his practice and is now working in New Jersey. His article was very interesting. He stated:

> "It was one of the first steps Hitler took after his succession to power to stop the flow of students from high school to the University and later to practically block admission to the bar."

> "Nazi Germany has, step by step, decreased the influence and activities of the lawyer, and it has been clearly shown that there is no place for the lawyer, as a product of liberalism, in a totalitarian system of state autocracy."

He further stated in his article that, during the trial of prisoners, a member of the gestapo would be present; that no lawyer dared to defend a Jew; that no lawyer dared express a political opinion or difference with the Nazi party. He said that if the secret police differed from the lawyer or the judge, that he might order the case dismissed, or, on the other hand, he might re-arrest the man and send him to a concentration camp, even after he were acquitted by the court.

He cited as an example Pastor Niemoeller, who was acquitted by the court before whom he was tried; but he was placed in a concentration camp after his acquittal. He said that, on account of the regulation of economic life, the Nazis rule with an iron hand; the business man had his orders which he must obey, even to a sacrifice of life or property; and that professional organizations have powers to arbitrate every difference between individuals, so that fewer cases come to court; and that, as a consequence, courts and lawyers were superfluous.

This attitude of Hitler is not new. When we turn to early American history, we find that the Lt. Governor of New York, Cad Calder, wrote to England in 1765, and said:

"If the profession of the law keep united as they are now, the abilities of an upright judge will not be sufficient to restrain the lawyers, without the security of an appeal to a court where they can have no undue influence. The lawyers influence every branch of our government, a domination as destructive of justice as the domination of Priests was of the Gospel; both of them founded on delusion."

And again, a month later:

"The dangerous influence which the profession of the law has obtained in his province, more than in any other part of his Majesty's Dominions, is a principal case of disputing appeals to the King; but, as that influence likewise extends to every part of the administration, I humbly conceive that it is become a matter of state which may deserve your Lordship's particular attention."

And in the same letter he further expresses himself:

"All associations are dangerous to good government, more so in distant dominions; and associations of lawyers the most dangerous of any, next to military."

The author, referring to these letters, further remarks:

". . . the individual lawyers of the day continued to be leaders in the struggle for the rights of the Colony, which resulted in the revolution."

In other words, a tyrannical government cannot stand the analytical mind of the lawyer and cannot stand the stubborn resistance that he gives to oppression.

I might add, also, that a free and uncensored newspaper is one of the greatest assets of Free Government that we have.

The mind and spirit of a lawyer thrives on opposition, conflicts, and difficulties. Under the white heat of controversy or opposition his mind fuses. He knows and appreciates opposition, for the reason that he has it every day. He knows the necessity of compromise and adjustments, the working out of differences. This is one of the reasons for his ability to survive.

There is a branch of the law that has arisen in recent years, that is, the administrative law. Whether we like administrative law or not, it is here to stay. It arose out of necessity; its results are not all that was expected of it. The weakness of the administrative law is that it is an attempt to embrace in one department, the legislative, executive and judicial. When you have the joining of these three in any one form of government, you have the totalitarian form of government. Where it embodies all of these elements, it is not commensurate with our form of government. We have had forms of these administrative laws in our municipalities and in our Boards of Supervisors. These bodies are controlled by frequent elections. The Mississippi Unemployment Compensation law, which was enacted to

supplement the Federal Government's New Deal; the Public Service Commission, known as Chapter 139 of the laws of 1938; and also the Motor Carriers Act, known as Chapter 142 of the laws of 1938, are good illustrations of administrative law.

Our legislature very wisely embraced in these statutes the right of appeal to the Circuit Court of the First Judicial District of Hinds County, Mississippi, from any finding, order, or judgment of the Commission. This same general provision is embodied in both laws of the Public Service Acts and Motor Carriers Act. The appeals from the Unemployment Compensation board is to the Circuit Court of the County where the claimant lives.

Our Supreme Court, in February of this year, held, in the case of *Dixie Greyhound Lines v. Public Service Commission,* that this statutory provision provided, in addition to the other remedies available, that the state or any party aggrieved by any final finding, order, or judgment of the Public Service Commission shall have the right of appeal, regardless of the amount involved. The Court held that this provision confers no new judicial power on the court, but simply creates a new procedure by which existing judicial power may be exercised; and, by giving this right of appeal to the court, the law was not thereby rendered unconstitutional. The Court reviewed the previous statutes that we had in this state of the old Railroad Commission, and said that it was unnecessary to determine whether the Public Service Commission was acting in a judicial or quasi judicial, instead of a purely administrative or legislative capacity.

There is not this same right of appeal in all cases; for in the Unemployment Compensation Law act, the appeal is limited to questions of law. The finding of the Board of Review as to the facts is conclusive, provided the findings are supported by evidence and fraud is not present; and where you have administrative departments with centralized power, that is, the power to make regulations, the power to execute those regulations, and the power to judge all offenders of those regulations, you have a department that tries to prevent hearing where lawyers are in attendance; and the tendency is to iron out all opposition.

If all administrative departments were limited in their hearing to judicial hearings without the right to legislate thereon, except in a limited way, the administrative branches of law would be a great instrumentality.

As a substitute for the legislative power of administrative law, we could and should have a recess committee from the legislature, with power to study and pass upon proposed legislative acts of administrative bodies. The judges of our Court are not given the power to legislate. That power is vested in the legislature of the state. They have the closer contact with the people. But, if a selective group of these legislators would make a study from the administrative departments, make their recommendations thereon, and have these recommendations approved by the legislature, we would be making a comprehensive study and solution of our legislative problems.

So much of our legislation is duplicate. We have several forms of municipal governments in the state. We have several different election dates for municipalities. We have several methods of creating road districts. We have separate school districts, consolidated school districts, rural school districts, municipal school districts. There is an overlapping of our legislative efforts that causes confusion. We have tried to solve this by having, from time to time, a Code. Our last Code was in 1930, and it was a splendid work. But if we had this recess committee, and I do not mean a "Roving Committee," but a committee who would study legislation, it would be a great saving to the lawyers and to the people of the State of Mississippi. As the lawyers predominate in the legislature and as the people look to the lawyer for guidance, we should try to work out something constructive. This has been done in England and the States of New York, Wisconsin, and several others, and it is found to be very beneficial.

We recognize that, unlike many conventions of other organizations, we do not come to promote any business, trade or occupation. This meeting was not called to advance the emoluments and profits of the legal profession. No man is here that he may put money in his purse. On the contrary, you have left your homes and offices, inspired by a patriotic desire to promote the stability and glory of our state, and to insure the blessings of liberty to ourselves and to our posterity.

Such a meeting necessarily challenges our admiration. But, when we realize that these exalted policies are entertained by men who possess a comprehensive knowledge of the history of mankind, the rise and fall of nations, the enslavement of free people by rulers who have destroyed the temples of liberty and out of its ruins have erected citadels of tyranny, then such a meeting has great dignity and importance.

When we meet in our annual meeting, we have no clients; we constitute ourselves judges of what the law and its practice should be; we are again at school, each seeking to learn and to teach the law at its best as we understand it, for the common good, not only of ourselves, but also of our communities.

This is not "just another convention." There is real significance and purpose in the coming together of so many lawyers at this time. The central idea of these meetings is to get away from mere forms and ceremonies, mechanics and motions, and to get down to brass tacks, taking specific and effective action on important matters which affect the state, the profession, the courts, and the administration of justice.

At this time I want to thank the Bar Commissioners for the splendid services that they have rendered the bar this year. We have had five meetings, and we have always had a majority of them present whenever they were called. They met, dispatched their business with thoroughness. These men really carry on. One Commissioner is appointed on every Committee and generally he sees that a proper report is made. As long as you keep good live men as commissioners you will have a live association.

This afternoon we will have a number of committee reports. You will be interested in them, as most of them affect all of the lawyers of the state, and they show some of the activities that the bar has fostered.

Those of you who attended the meeting of the Junior Bar Section on yesterday realize that the young members of this Association are on the move. They are studying various problems of the legal profession, and in the morning we will have the privilege of hearing their report.

The body of the law is like a great river, ever moving—sometimes swiftly and sometimes it appears very slow. The young men with their young blood are fed into this river and give it new life. The Junior Bar Section is doing its part in keeping abreast of these changing times.

The Law Journal has been of great benefit to the Bar. The articles contributed are accurate, up to the last case, and are prepared in such a manner that they may be used in Court.

The splendid articles on oil and gas were thoroughly and carefully prepared. These articles constituted a symposium on this subject. If you are failing to read your Law Journal from cover to cover, you are missing some very valuable help and information. Most law offices are retaining these journals for ready reference.

During the past year, the Bar Association has had some fifteen district institutes, district meetings, or legal clinics. The lawyers who cannot attend the annual meetings, away from home, by these meetings have a larger and broader part in the policies and purposes of the Bar, and such meetings afford the attorney an opportunity to express his views.

Our work with the institutes has been the hardest work, but we have enjoyed it a great deal. We learned a great deal from each meeting. Lawyers are great fellows; it is a privilege to work with them.

At the first meeting of the Bar Commissioners I told them that, if they would arrange these meetings in their districts, I would personally attend all of them, and would arrange to get speakers for them. They took me up, and while it was sometimes hard, it was also a great privilege to help the Association.

The first meeting was at historic Natchez. Hon. Everett Truly was in charge of their district meeting. One of the things that they were interested in was the Public Relations of the Lawyers. Their Commissioner, Hon. Wilfred Geisenberger, had a plan by which the local association gave a substantial prize for the best essay on the relation of the lawyer to the public. The Bar Commission approved this plan to have a state contest from the various high schools of the state.

We will hear how this worked out at the meeting this afternoon.

The lawyers of the First District wanted to learn something about the Wage and Hour law. We invited Hon. J. S. Allen, President of the Shelby County Bar, to give us a lecture at Corinth on this important subject.

Mr. Allen had made a careful study of the statutes and had handled several matters under the statutes. His lecture was instructive. It gave lawyers insight into the act that they could not have gotten without a lot of thought and study.

At a later date this same group of lawyers had a splendid meeting at Aberdeen. Judge Cox was on the program. Mr. J. H. Fox and Mr. John Wade, both from the University, came over for the meeting. Mr. Fox talked on raising the standards for admissions to the Bar, and Mr. Wade discussed the Mississippi Law Journal.

The authorities at the University arranged an Institute for one day on the Law of Oil and Gas. They did a splendid job, and had men who know what they were talking about, and how to tell it. Dr. W. L. Summers, the author of *Summers on Oil and Gas*, a work of eight volumes, and an instructor at the University of Illinois, was one of the speakers, while Dr. A. W. Walker, Jr., an instructor at the University of Texas, probably carried away the laurels by his complete understanding of the question that he discussed. These men crammed into one day's instruction theories, principles, and laws that would take you weeks to arrive at if you had to start from scratch. There were about one hundred forty lawyers in attendance at this meeting.

Mr. E. B. Williams, Commissioner, arranged an Institute at Senator Bilbo's Dream House in Poplarville, Mississippi. Mr. Fred Leonard, attorney for the Sinclair Oil Company, attended this meeting and gave a complete talk on "Covenants and Implied Covenants in Oil and Gas Leases." Mr. Leonard had been an instructor at the University of Oklahoma. We had about fifty attorneys present at this meeting.

The Hinds County Bar Association held two Institutes, both of which were taken up with Federal practice. We had Judge Muscovitch of New York City, and Judge Sidney Mize. At a later date, Judge Curtis Waller, Federal Judge from Florida, and Judge Mize were our principal speakers.

On the 6th of this month, the Hinds County Bar began having monthly Forum Meetings, or clinics. Mr. Harry Bryan arranged the program. We had as one guest speaker Hon. Fred Lotterhos, who made a splendid talk on administrative law and its interpretation by our Supreme Court. Judge Percy Lee talked of trials in Criminal cases. Judge Percy Lee had been District Attorney and later Circuit Judge, and his observations were therefore forceful and helpful. We had two of the Supreme Court justices present at this meeting. Judge Anderson and Judge Alexander both made some remarks to the bar.

Commissioner Knox Huff, with the attorneys of his District, arranged a meeting at Roosevelt Park in Scott County. They had, as their guest speaker, Mr. Ross Barnett of the Jackson Bar. Ross made them a good talk and told the boys of the reformed practice and its application to the Mississippi Laws. They had a social meeting at Philadelphia that I could not attend.

Hon. J. H. Caldwell of Charleston invited your speaker to a meeting at Batesville for a District gathering. While I was driving up there with Hon. Greek Rice, I was trying to impress on him how necessary it was for a man to get married. I advanced the thought to him that married men live longer. Greek just gave me a look out of the side of his eye and said: "It just seems longer, Gene." At any rate, it gave him something to think about, because he forgot to get any gas. While we were on that long, straight stretch between Vaiden and West, the car stopped. Gen. Rice said something—I can't recall exactly what it was—but we heard a whippoorwill off to the side of the road, and Greek said it was time to plant cotton.

The lawyers of Vicksburg arranged a splendid meeting in May of this year. The principal speakers were Judge Julian P. Alexander and Hon. Charlie Engle of Natchez. Judge Alexander made one of his classical talks that was enjoyed by all of the attorneys. Mr. Engle made an inspirational talk on the "Patriotic Duty of the lawyers."

Not the least, but the most important, was the institute of the American Bar Association held in Memphis, Tennessee. Hon. Jacob Lashley, President of the American Bar Association, and Walter P. Armstrong, President-elect of the American Bar Association, came to the University of Mississippi, where Mr. Jacob Lashley made an inspirational talk to the law class of the University. All former presidents of the State Bar were invited to be present at this meeting.

The next day the American Bar Institute for the Southeastern states was held at the Peabody Hotel. There were a number of Mississippi lawyers present.

Judge John J. Parker, Judge of the Circuit Court of Appeals of the Fourth Circuit, made the most notable contribution. He spoke of the reform going on in the Federal practice and encouraged the judges and the legal profession to be on the alert. I will not go into his message, as you have probably seen or read that.

We have been losing our power to govern because we have not been properly exercising the powers we possess. You know the fish in Mammoth Cave have eyes, but they cannot see, for the reason that they have not used their eyes for a such a length of time.

While lawyers as a whole are rugged individualists, their work makes them that way. They cannot sell and convey their law practice; they cannot pass it on to their children, and entail it for their next of kin, yet they appreciate the fact that in unity there is strengh. They know that the Bar Association is not run for the benefit of any lawyer or any group.

Our responsibility is to see that the wheels of democracy are kept running. With the changing and shifting times, we must not permit the destruction of our second heritage; we must not permit the growth of that spirit which attempts to destroy everything that disagrees with it.

We can say with Longfellow:

"Sail on, O Ship of State!
Sail on, O union, strong and great!
Humanity with all its fears
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope;
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope!

Fear not each sudden sound and shock,
'Tis of the wave and not the rock;
'Tis but the flopping of the sail
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea;
Our hearts, our hopes, are all with thee.
Our hearts, our hopes, our prayers, our tears,
Our faith triumph o'er our fears,
Are all with thee—Are all with thee!

Our responsibility, therefore, is to see that our institutions are preserved—that our way of life shall remain intact—that life, liberty and the pursuit of happiness shall continue to be the right of every American citizen.

The President presented Mr. S. E. Morse who introduced Mr. Arthur A. Moreno, past President of the Louisiana Bar Association, who addressed the convention. Mr. Moreno also prefaced his remarks with a eulogy of Senator Harrison. His address follows.

THE OLD ORDER CHANGES

ARTHUR A. MORENO

An invitation to a lawyer to address his brethren of the bar must strike strongly the strings of appreciation. However much there might be pleasure in his choice, the invitation should go deep into the reservoirs of responsibility. There must come to him the belief that the occasion when men, united by common ideals in the pursuit of a purpose, come together for the exchange of ideas, it is as if they had come to some baptismal fount to renew their pledges of allegiance to the principles which alone can make a happy state.

It is with that mixed feeling of pleasure and responsibility that I come here today, happy in the knowledge that the Mississippi Bar Association,

as the exemplar and guardian of fundamental principles, has been one of the most important influences in the welfare of the state and the preservation of ideals of its government. Responsibility is at the root of the fear that I may not measure up to the honor of the invitation; but at least I am sustained by the belief that the brotherhood of the Mississippi and Louisiana Bars will clothe my shortcomings with the mantle of fellowship in a noble calling.

It would be the futile painting of a picture whose features are too well-known to say to you gentlemen that the bar of Mississippi can always be proud of the men who have been the expounders of justice. It would serve no useful purpose to call the names of those whose mental stature measures up to that of Prentiss, Lamar, Walthall, and others whose voices have rung clear and loud throughout the halls of justice in the assertion of principles whose sacredness is beyond question and whose need of preservation is a trumpet call to the dedication of our finest spirituality.

The lawyer, in the fervor of the assertion of individual rights, may sometimes lose the proper perspective; yet it is universally true that, in the adherence to principles of government, the calm judgment, that knows that only right can form the foundations of a state, remains with him, as fixed and true as the North Star.

It is a pleasant recollection to know that, when the promptings of freedom to escape from foreign tyranny produced the American Revolution, and that, when that great document, the Constitution, born of that convulsion, was brought to birth, there were in the forefront of the dreamers of that day and the thinkers for the happiness of future generations, the men of the law.

When patriotism had achieved its purpose of freedom, and so many of the lawyers who had carried gun and sword returned to the quiet pursuits of life, the same force of character, the same clear insight, and the same determined will that had sent them to the forefront of the battle lines urged them forward to the leadership of their country.

It was these men who convoked the constitutional convention within the hall where the undying echoes of great debates still linger. Here the voice of the lawyer rose clear and potent above them all. It was the lawyer, nurtured by principles of justice, warned by the tyranny of government, and spurred by the idealism of an embryonic nation destined to rule the world, that fashioned into words the Constitution that has been the fortress of liberty, a refuge for the oppressed, and a monument to wrongs righted and rights preserved. Today, we face the problem of whether we want democracy to continue within the protection of that Constitution and whether we are willing to fight for its preservation.

We are living in the greatest crisis of recorded history. All illusion has been dispelled in the white heat of reality. Although a million lives have been sacrificed and billions in property destroyed, yet armies must march on, because we have before us the necessity of an indefinite struggle and the need of increasing endurance, until the enemy of Christian civili-

zation is forced to yield to the power of the sword. Where reason once ruled, now only force compels, so that we can see no compromise with a power that rejects justice, cynically disregards treaties, ruthlessly wipes out national boundaries, and subjects smaller nations to the yoke of distorted ambition. The means employed have been denuded of Christian considerations, and there has been substituted for human understanding an atrocity that shames humanity itself.

The nations of Europe have learned that peace and happiness cannot be won by submission to a tyranny based on force. Unborn generations depend upon our courage and tenacity in these fateful times. Every generation has been called upon to make sacrifices. The glory of Shiloh was not achieved without human suffering. The fame that surrounds Robert E. Lee, Stonewall Jackson, and the other heroes of a by-gone day is encircled by chaplets of sorrow. The soil from which grew the flower of Southern womanhood has been fertilized by the tears of mothers and wives bereft of those they loved. It pleases us to believe that human life today has not been emptied of the qualities of fortitude which animated a small Confederate army, outnumbered and wanting in material resources; so that we have a right to believe that, however great the sacrifice, whatever sorrows may come from its making, the people of our generation will rise to the needs of today.

Just as our forebears learned that "the hoarding up of life for its own sake, seducing us from those considerations from which we might learn when it ought to be resigned," would cheat them of their heritage of courage, so we know that God gave us life to be well spent, and not hoarded for an empty day from which freedom has departed. The monuments to courage and self-sacrifice which dot the land are like so many lamps on the altar of patriotism, and upon that altar, if need be, there shall be yielded up life itself.

The destructive force that has been loosed upon a once peaceful world has marshalled in the people of this country every instinct of decency, every prompting of patriotism, and every lesson of self-sacrifice. The carnage will not end when the guns are silenced. The sorrow of today will not disappear when the last regiment has been called home. No treaty of peace will ever restore to nations, robbed of their national heritage, the happiness that once they knew. The furling of the flags can never bring back the monuments of civilization that have been toppled in the dust by the force of war. The world which we once knew has gone to join the history of nations once happy and powerful, and the dream of a brotherhood of man, where each nation in its own sphere was to develop according to a civilized understanding, has disappeared in the mad ambitions of a single group.

The need of the people of America to summon their forces in the exemplification of a historic courage that has been the pride of many generations is imperative. Out of the chaos and ruins of a saddened world there must arise a new conception of national life. Out of the disorder of chaos must need come the order of the law. It is probable that at no time in the

history of this country has there been more needed a unity of purpose on the part of the lawyers and a mobilization of the intelligence, courage, and patriotism that in the past has been so unselfishly devoted to the country's needs.

It is because of the vision of the lawyer, his penetrating insight into the modes of thinking, his understanding of the aspirations that move to higher things, and his technical skill in fashioning formulae that this country owes so much of its progress and happiness. From the lawyer the Constitution took its form and substance. The preservation of constitutional liberty has been the proudest boast of the brotherhood of lawyers.

Out of an instrument designed to create and preserve rights for generations yet unborn, it was but natural that no human document could, with meticulous preciseness, draw fine the limits of the delegation of sovereignty to the federal government, nor prescribe beyond dispute the areas of judicial and executive authority, nor etch forever the relations of freedom to the law's control.

Out of the historic conflict over paramount powers there came the need of arbitrament, and from that breach so widely opened there emerged the heroic figure of John Marshall. The vigor of his mentality, the clearness of his intellectual vision, and the power of his pronouncements gave to chosen principles a sanction that stilled the voice of conflict and made clear the paths of constitutional powers. Into that Constitution he breathed a vitality that for many generations has transformed a constructed Constitution into a living organism adapted to the changing needs of a growing nation. For generations a reverence for that instrument has been no less than the teachings of worship for the spiritual qualities that reside in religion. No less does reverence belong to the expounders of the principles of political freedom which reside in the Constitution, than to those whose voices signaled the death of bigotry and exposed the beauty of Christian doctrine. From out of that reverence there comes to us today the problem of its preservation and the continuance of the spirit which gave it light.

The Constitution sums up the political hopes and aspirations of a people. In it is embedded, not only the guide-post to liberty, but the barriers to oppression. It is an instrument of prevention of past wrongs and the source of future rights. If it is to be an effective instrument of government, it necessarily must possess some flexibility. If it be inflexible, it limits social and economic progress. If it be inelastic, no new conception of right can intrude beyond its limits. But the Constitution of the United States was not so framed. It was created with the higher purpose of protection and progression. Necessarily, it was not self-operative, nor self-expressive, and required a voice to state its context and express its spirit.

The Supreme Court of the United States has, through generations, performed the noble service of preserving constitutional ideals of government and has kept pace with the evolutionary ideas of required change. It built, principle upon principle, until it reared an edifice wherein has been guarded the repository of our rights and liberties.

Today, the Supreme Court is under attack. It is being attacked from within and from without. The attack from within comes from an abandonment of jurisprudence formulated by the best minds of many generations. The attack from without comes from those who would destroy it, because it stands as the symbol of a stable order and retards the progress of revolutionary changes.

Today, a million marching feet, a million maimed and wounded men, and millions of heartbroken women and children attest to the power of tyranny and cry against its wanton exercise. If there had been the vision of statesmanship, supported by political courage, the sorrow that racks the world might have been avoided. Just as in the realm of territorial conquest, there was substituted for vigilance and courage, a drowsy fear of an impending and inevitable doom; so it is that, unless we, as lawyers, have a complete awareness of an imminent destruction of liberty within the realms of law, there will occur a mutilation of principles with the same resulting sorrow in the intellectual sphere of the law as in the material world of today.

In this country, millions of young men, and even older ones, have left the quiet pursuits of normal living to enter upon training in the protection of their country. The teachings of spiritual life, devoted to the purpose of progress, are to be extirpated and in their stead is to be substituted the lessons of force. Just as they will be taught vigilance, and just as during the quiet hours of the night they will sentinel their fellows from harm, so it is that we, as lawyers, like good soldiers walking our beats, should sentry and preserve for future generations the blessings of constitutional government.

It behooves us here today to dedicate ourselves to prevent the damming of this stream of constitutional right by fanatical intellectuals and their pollution with the thoughts of communism and socialism. The purity of that stream, however, must be preserved at its source. It will not benefit to keep it clear and pure within its lower reaches when the poisoning takes place at its highest point. No power of purification beyond that source will keep it wholesome and pure throughout its length.

That preservation is more than a mere continuance of the form of the courts. The satisfaction of the ideal of preservation goes to a traditional belief in the efficiency of courts as the guardians of the rights of property and personal liberty. It consists, not of laying wreaths of remembrance to the great men who graced the bench, but in upholding the principles which to them were like Holy Writ. The duty of those who believe in the sacredness of precept and principle, which join reality with humaneness, must be the reinstatement of those trained by experience to decide.

The composition of the court has changed from the lawyer with a mentality toughened by struggle to the college professor whose mental fiber has been developed in an academic atmosphere where his unchallenged statement becomes the law. The law student never becomes a lawyer in the higher sense until his form has been hammered out on the anvil

of experience. Until experience has given him shape as a thinker, he is but a mass of principles. Until he has come to grips with realities, he is but a dreamer. The fact that he might dream that, by the adoption of principle, he can eradicate every human wrong and institute in the place of ethical rules, born of experience, formulae of conduct that emanates from dreams of social justice, does not fit him to be an interpreter of a permanent social and economic order.

The lawyer, taught by hard-earned lessons, fears the rule of man and trusts only in an accumulated body of principles, that, like a treasure chest, contains the social expression of many years. His realization of the law is not that of a passing self-interest that is born and dies in a single generation. He knows that law is not the expression of changing judges, but is fertilized in the womb of time and brought to birth by an understanding that measures intellectual good by generations gone and yet to come. He knows that the desirability of a present end should not becloud his vision of a better future. He believes devoutly the law to be a system of social order that has its source higher than the judges' bench. He knows that out of a cycle of material prosperity there may come an era of depression so great and so devastating as to bring social order to the verge of revolution. However much assailed might be his faith in the justice of the organized society in which he lives, he yet knows that to jettison human experience in the pursuit of humane ends, detached from the logic of living, may lead through the paths of paternalism to the fields of socialism.

With a trained intellect, he knows that, while the plumb in its descent may waver, eventually it reaches the bottom in a straight line. He knows that the laws which condition human relationships are no less distinctive and no less imperative than the teachings of science itself. He knows that, no matter how desirable might be social experiments, no such experiment is free of the explosive danger that must attend every experiment that is not the outgrowth of human experience fortified by thought.

With a wide intellectual range, the lawyer senses, if he does not see, the danger of regimentation in a democracy. He knows that, however desirable it might be to alleviate human suffering, paternalism is like the administration of a soothing syrup that calms but does not cure. With a trained thinking capacity, he knows that, when the governments of Europe entered upon socialization, for the immediate end of relieving want, social experiments were justified, but equally he knows that, when governments enter into the private life of the individual and teach him that initiative is no longer a requisite for happy living, the citizen relapses into a protective governmental area, dominated by individuals who demand his unquestioning obedience in return for the soft protection that our pioneer people neither needed nor accepted. The housing projects of Vienna, with the homes wherein was bred and nurtured supineness of spirit and the abdication of will, led to the obliteration of a nation whose contribution to art, music and poetry is unforgettable.

When the French trade unions seized the government, those who should have been leaders became the tools of labor, and "Sedan" was written across the face of France. When Germanic rulers enslaved a whole nation and offered up the individual to the God of War, there was unloosed upon the world a ferocity and destructiveness that even those with the most vivid dreams of brutality had never known. Never could the galling chains have been fastened to their feet, if the individual had not been lost in the ideology of the state.

It behooves us, therefore, to pause, and, as lawyers charged more largely with the responsibility of government, because of the training and ability of the lawyer to see and say, to ask the searching question, "Wither do we go?". "Is it our designed purpose to walk the dusty roads of Russia, or to tramp the green fields of America?" It is imperative that we ask how near or how far are we to the Russian conception of social and economic order. Is Russia as far socially and economically as geographically, or have the principles of Sovietism erased the distance from the steppes of Russia to the pines of Mississippi?

The leveling process of our government has sought to bring citizens nearer a common level and has signaled for destruction the individual distinctions that give to life its greatest charm. If the socialization of the citizen continues to the end that all are reduced to an approximated single standard and dependent upon the bounty of the state for their subsistence, then he ceases to be a man of full political stature, and becomes dwarfed into a puppet of the state.

If there were a gauging stick which could be thrust deep into the lower levels of indigency, and the paternalism of the government could be confined to that level, there would be unquestionable justification for the social experiments which now demand our interest, but, unfortunately, the dole and the bounty do not end with the limits of the class which brings it into being.

The acquisitive instinct of man, fortified by a demand for equal treatment and by the envy of his neighbor, inevitably raises governmental benevolence above the levels of poverty and spreads its poison into higher strata. If the process be continued long enough, no single class escapes the destruction of paternalism, and the citizen, no longer an individual, becomes merely a part of a jellied mass of government.

The gentle teaching of the Savior has implanted into every healthy heart the thought of a brotherhood that derives its benediction from His teaching. No one doubts that some earlier economic theories can survive no longer than the disappearance of the brutality on which they rested. To the consciousness of every Christian has come the knowledge that lasting foundations must rest on Christian understanding. To doubt the wisdom of a social experiment is not to condemn its humane end, but is only to pose the question of whether a synthetic national prosperity can be induced by an abandonment of the normal processes of releasing creative energies and substituting an order from which responsibility has been drained.

Conceding the uplifting influence of the humanitarian impulse, there still remains the question of whether, when the final scene is played, the withdrawal of capital from productive industries in its devotion to public purposes will produce a greater national fund than if our present system of industry, properly regulated, had been permitted to develop along logical lines.

If civilizations that sought permanence by the construction of public buildings at the expense of private enterprises have crumbled into forgetfulness, some few ruins remain to teach the lesson of taxation. That lesson ends with the moral that taxation can never be the means of producing wealth and that capital alone, spurred by individual initiative, is the only means by which any civilization can survive. The pageantry of the Roman circus was a pleasant spectacle and satisfied the superficial cry for amusement to forget fundamental needs, but the glory of the Caesars dissolved in the acid of an excess of taxes.

Governmental organization can never be a substitute for free enterprise. The dole of a benevolent tyranny, dressed in the clothes of democracy, can never take the place of the rewards of work, whether the work be performed within the fields of labor or within the area of industry. The theory that governmental beneficence can be the soul of democracy is merely the resurrection of a political philosophy that exceeds modern thinking by many centuries. To state the problem in the light of history is not to abandon the teachings of today. The fundamental question that confronted other civilizations is the fundamental question that challenges the thinkers of our time. Do we want to surrender private enterprise to governmental benevolence?

There can be no escape from the fact that the current heresies challenge the hard-won rights of the American citizen. They pose the question of the limits of governmental control in relation to individual right. The circumstances of today instill fear, because of the possibility of those trained in violence overcoming those devoted to thinking. The testimony by the Dies Committee of a reformed spy of a foreign foe shows that our shipping on the western coast is in the hands of a communist, who has come to free shores only within slightly more than a decade and, during that time, has seized more power than ever wielded by a single captain of industry, unrestrained by law or responsibility.

There has been a complete surrender of the fortresses of constitutional protection to the power of labor, expressing the strivings of an organized minority. The right of the worker to organize has been treated as if it were exclusive of the right of business to exist. The right of freedom of the individual worker to labor on terms of his own choosing has been lost in the sanction given violence against that right.

The fact that no barricades have been erected in the streets, that the sound of gun fire does not startle the timid, that no trumpet calls us to the defenses, makes the changes which confront the people of today no less a revolution. Every revolution has as its end the destruction of gov-

ernmental principles and the substitution of new theories. While the means of accomplishment may change, the end remains the same, regardless of the gulf between violence and propaganda. The fact that one revolution expresses itself in some few days of fighting creates no difference in purpose from one that insidiously instills its doctrines through the years. The fact that the peaceful revolution wears the livery of thought makes no distinction from the one wherein the revolutionaries wear the uniforms of war. The question in either case remains as to the alignment of the citizens, whether in defense of the present order or its destruction for the substitution of the new.

There can be no doubt that far-visioned men have realized the need of social adjustments. Through evolutionary processes there has come a recognition of the rights of the worker and the need of an adjustment of the profits of production. Social thinkers have plumbed deeply the economic laws that inevitably govern the progress of a people. They have realized that when the hand worker was transformed into the operator of complex machinery, the simple relationship of employer and employe could no longer suffice as the measure of right between the two.

There had come clearly the realization that mass production, created by large units of capital, could not continue to exert, unrestricted, its power of dictation over labor. Thinkers realized that production was the progeny of a union of machinery and human effort. They knew that, as the single worker dealing with a single employer had disappeared and had become merged in the productive mass with complete loss of individual identity, the old formulae for wage determination had become obsolete. They knew there was the need of the substitution of a rule of industrial justice that recognized the worth of the individual laborer in the production of the national wealth.

No thinking man, of course, believes in the unbridled power of capital. No one believes that there should be no needed restraints through the compulsion of the law. No one believes that business should rise above law and that necessary regulation should be inhibited. The problem is not the prevention of an exercise of freedom, but to find the limits where initiative and absolute freedom should end and where the field of control should begin. To strait-jacket business and put it beyond the bars of freedom is to destroy the very hope of a happy society. To put it at the mercy of those contending for the destruction of its rights is to put it beyond the hope of survival.

The same economic laws, unrestrained by excessive governmental power, which had raised this country to a pre-eminence among the nations, were working out a solution of the problem presented. The adherence to these laws had solved many problems more difficult of solution, and so the problem of capital and labor could have been likewise solved within the field of economic law instead of in the realm of governmental control, inspired by apostles of a creed of labor.

It would serve no useful purpose in the search for industrial peace and social justice to destroy one tyranny for the creation of another. For

several hundred years the guillotine stood in the streets of Paris, and into the fateful basket fell the innocent heads of thousands. The Revolution caused its operation to be arrested by Bourbon aristocracy and substituted the vengeance of the mob. Innocent heads fell into the bloody basket with equal rapidity and like injustice. The fact that royal raiment had given way to rags did not breed into the French justice the spirit for which the Revolution was created. It would not add to conceptions of right and the imposition of principles of social justice in the relation of employer and employe to substitute, for the power of capital the unrestricted control of labor.

Just as the French learned that the transfer of its oppression from silk to corduroy did not transmute the guillotine into an instrument of justice, so experience must demonstrate that the substitution of one kind of oppression for another is but the continuance of oppression without attaining the desired end of social justice. It can make no difference that the voice crying for justice comes from a wilderness of labor wrongs or from a wilderness of acts of violence against industry. The cry from either direction is doleful and can be stilled only by political courage facing facts. The facts confronted must be the dictatorial power of labor leaders, who, by a single flick of the finger, still the whirr of great machines and plunge into idleness a hundred thousand men. The fact that the labor of these men is a prime requisite of national defense is no deterrent to the sacrificial offering upon the false altar of labor chosen by perfidious leaders. The safety of a nation is dismissed with the suggestion that the so-called rights of labor must be preserved. The cry of patriotism is drowned in the clamor of irresponsible labor leaders. Only the courts can distinguish between clamor and justice, and they only are the last defenses against the tyranny of organized pressure groups.

Tyranny is power unrestricted. It is the deadly enemy of the law. It brooks no interference and hears no voice of admonition. It is the enemy of liberty that the Constitution was created to preserve. It rises above constitutions and hears within its ears its single voice. With unholy zeal it seeks to make the voice of the court but a dying echo heard as if in a remembered dream. Today, every lawyer, trained in the precepts of liberty, must meet full panoplied the army of its destroyers.

Sedulously for years there has been an insistent corruption, at its source, of the regard for law that the Constitution embodies, as expressed by the courts. Against the doctrine that liberty is the preservation of individual right there has been urged the limitation of liberty in the interest of governmental control. The struggle of the individual for the expression of himself within the limits of the law has collided with the theory that paternalism is the proper way of living, and into many universities there has been infused the virus of extreme collectivism that will cause the figure of the individual to disappear in the formless mass of pure nationalism.

Within the legal field there has come a conflict of opinion equally as menacing as the struggle of democracy against communism and col-

lectivism, whose preachers swear to tear apart the pillars of the democratic world. Out of this conflict within the field of the law must emerge a new conception of government, because both schools of belief cannot be paramount in the imposition of their concepts upon the Constitution. One school of thinking believes there has been too much reverence for precept and not enough emphasis upon present social theories just emerging from new thoughts. That school of thought believes that there can be read into the Constitution the expression of every social need which, with propaganda, presses forward for its acceptance.

Law, from that viewpoint, becomes, not rules of conduct that embody and express the long-approved moral and social conceptions of a people, but becomes the expression of administrative heads propounded through judges unfettered by fundamental restraints. The court becomes, whether consciously or unconsciously, the voice of the executive, so that there is merged into a single person all of the powers that the Constitution designed should be exercised by different departments of the government. The summation of the entire principle is the picture of complete and limitless power in the habiliments of democracy. The fact that the power is in the hands of a popular President is not a surety bond against its descent into the hands of another less fitted for its exercise.

Within the halls of Congress, there has been a ready acceptance of the urgings of young doctrinaires dripping with new-born thoughts. We have seen congressional approval of the substitution of bureaucratic power for judicial expression. The fact that generally those who operate administrative machinery express a specialized viewpoint and are charged solely with the achievement of a single end and that sometimes they are fanatics in the fields in which they work has made no difference to the so-called liberal thinkers.

The imposition of so-called liberal thinkers upon time-honored beliefs of constitutional right has so changed the features of our government that no longer is conservatism the frontier at which liberalism begins. The frontier of liberal thinking has departed from the dividing line of the traditional thought of this country and has even reached as far as Russia itself. Because the courts have retarded the progress of the march, they should be destroyed.

The other school believes that the immediate demands for so-called social progress may readily find recognition within principles approved by a hundred years and that the evolutionary processes should not be submerged into revolutionary conceptions which teach the social progress is a matter of daily change. That school believes that the body of principles pronounced by a hundred years of jurisprudence sums up the ideals of a democratic state.

There must be an inevitable choice. There must be an election between the theory that insistent clamor for change is the force of law, or that continuity of expressed principle is law itself.

We have seen the Supreme Court of the United States, in *Labor Board v. Phelps Dodge Corporation,* 85 L. ed. 390, consecrate the doctrine that the Labor Board may go beyond congressional limits and adopt means of its own choosing to effectuate what it considers to be the purpose of Congress in the Labor Relations Act. We have seen the court, in *Labor Board v. Waterman Steamship Company,* 309 U. S., 206, and *Labor Board* v. *Falk,* 308 U. S., 453, abdicate its power to investigate the actions of the Labor Board and say that the acts of the Labor Board are beyond judicial inquiry. We have seen the court hold as constitutional the right of Congress to forbid an employer to discuss his views of the worth of labor unions and have seen it, in *Thornhill v. Alabama,* 310 U. S., 88, hold that the right of free speech, guaranteed to the individual, prohibits the State of Alabama from the exercise of its police power by a statute forbidding a picket to carry a sign regarding the business of the citizen. We have heard the court say that the right of free speech is a constitutional guarantee to discuss publicly and truthfully matters of public concern without state restraint. We have seen its pronouncement that the exigency of the colonial period and its efforts to secure freedom from oppressive administrations developed a broadened conception of free speech as a requisite of liberty, and then hold that carrying a banner in a labor dispute is within the protection of the Bill of Rights. The power of the state to prevent disorder in a labor dispute is paralyzed, and the right of free speech thereby becomes, not a means to defend the democratic state, but a weapon of industrial warfare to be used by one side alone. It loses its identity as the necessary instrument to preserve liberty and becomes a weapon of coercion in a private dispute. Free speech ceases to be the medium for advancing political theories or expressing convictions on matters of public concern, but may become the equivalent of defamatory statements to achieve a selfish end.

We have seen the injunctive process emptied of its power by the holding in *Nye v. United States,* 85 L. ed. 733, that a court is without authority to punish for contempt, unless the contempt be committed so physically near the court as to interfere with its orderly processes, and that such contempts are triable by a jury. The far-reaching effect of this decision is that, in highly developed industrial areas where juries are composed largely, if not exclusively, of members of a union, an injunction remotely affecting a labor question may be completely defied.

The protection of property by the courts in labor disputes has been destroyed, but where a court is competent to enjoin its decree may become futile, because of the inability of the court to determine for itself the meaning of its decree and the question of its violation. The result of the decision tends to destroy the power of the courts and to render nugatory its orders. The knowledge that an injunction may be disobeyed without fear of punishment, because the question of violation is to be remitted to a jury trial which might be long delayed and occur only when the controversy which has given rise to the injunctive processes has ended, gives to the violators of the injunction an immunity that it has been the purpose of 100 years of jurisprudence to prevent. This is but

an added step in withdrawing from the courts their ancient powers and perogatives. However, this is but one of many departures from time honored principles.

One of our latest appointed justices, speaking of the pronouncement of Chief Justice Marshall that "the power to tax is the power to destroy," says it is but a figment of language and merely a "seductive cliche." The decision in *United States v. Appalachian Electric Power Company,* 311 U. S., 317, holding that a stream never navigable is a navigable stream if it can be made navigable by an unlimited amount of public funds, the decision in the *Milk Wagon Drivers Case,* 311 U. S., 91, holding that a jurisdictional fight between labor unions makes the employer a party to a labor controversy, and deprives him thereby of injunctive protection, the holding that anyone even remotely connected with interstate commerce is subject to the Wage and Hour Law must inevitably bring smartly to our attention new judicial conceptions which challenge the teachings of those on whom we have bestowed our reverence. It may be that I see with the yellow eye of jaundice things that are brightly colored in a becoming hue. However, whatever may be their color, the sum total of these decisions is that the old order changeth and giveth way to the new.

The lawyer has believed he was rendering intellectual services in a refined atmosphere of mental activity and was not engaged in commerce. The startling truth has come that we are not intellectual, but commercial. In a case from California, not hoary with age, but with the vigor of a newly announced principle, the court held that although a contract of indemnity had relation to commerce, it was not commerce. The new theory of the court is that if a lawyer in Mississippi sends a letter to a lawyer in Louisiana, he is engaged in interstate commerce. The purchase by a love-sick swain of a stamp printed in Washington and attached to a letter addressed to his girl around the corner puts him in interstate commerce.

The time is not far distant when the son of a farmer with fastidious tastes, because he is in possession of a Sears-Roebuck catalog, printed in Illinois, proudly hanging from a peg in a telephone booth, will be considered in interstate commerce. It is not hard to envision the American Gestapo searching out every building immortalized by Chick Sale in "The Specialist," to see if Sears-Roebuck is present with a list of articles which may be ordered by mail.

It will be just a small step forward when an unsmiling groom and his grinning bride will be made subject to the regulations of the Interstate Commerce Commission on the theory that he bought his socks in Chicago and she bought her garters in New York and transported them to Gulfport. By buying these articles, they invaded the field of interstate commerce and so became subject to the inquisitorial power of the Federal Trade Commission, which might cite them to see if they have been guilty of unfair practice.

Anyone with sufficient imagination can readily envision the time when the business agent of a trade union will inspect the trousseau of

every bride and if it be discovered that her most intimate pretties have been manufactured by a concern in New Jersey, who is unfair to labor, there will be pickets walking up and down the bridal path with banners that John Doe and Miss Mary Roe are unfair to labor.

It may also happen, that, nine months after the wedding, the bride will be in labor and will be compelled to choose between the American Federation of Labor and the C. I. O. If these two organizations become involved in a jurisdictional dispute, under the *Milk Drivers* case she automatically becomes a party to a labor controversy. By being in labor, she loses her constitutional right of self determination.

If she should be in labor for more than 40 hours in any single week, it is probable that under the rules of the Wage and Hour Administration, she is in violation of the law and subject to a fine. When she realizes all of the complexities attendant upon having a baby, she may feel that besides her other suffering, she is suffering from an excess of government. At that point, she probably will regret ever having entered upon the project and be perfectly willing to drop the whole matter.

The Wage and Hour Law has invaded every nook and cranny of American life. We have the mental picture of Zeke, the hired man, bringing in a load of wood to Carrie, the cook, and philandering for one-half hour so that Carrie can't peel the potatoes. When Zeke has left, Carrie engages in reverie for thirty minutes. The result is that the dinner is delayed and Carrie works 42½ hours that week so that Mrs. Van Stuyvesant, or possibly even the ordinary Mrs. John Smith, has to pay time and a half. This would seem to be an outrage, but it is in line with the policy of the government that all labor must be made a pleasure.

The thought that there might be some social injustices in the employer having to pay for the pleasure of the employe escapes the thinking of those who hold that a banner carried by a picket with printing, however defamatory, is within the protection of the constitutional right of free speech, but that the mere whisper of an employer to the second cousin of the wife of an employe that trade unionism is undesirable makes an employer liable to a jail sentence. Of course, that legal distinction is perfectly clear under the present teachings of some of the universities, but it may be possible that Rufus Choate, Edward Douglas White and some other lawyers, trained in the school of constitutional reverence, might wholly fail to grasp the distinction. However, with a vigorous campaign of education, it may be that sooner or later all of us will be able to accept, if we can't understand, the distinctions that, like bootleg whiskey, are being manufactured by the Supreme Court over night. Unfortunately, some are equally unpalatable.

For instance, we have all believed that a navigable stream is, in legal contemplation, a navigable stream. However, the Supreme Court has said any stream which may be made navigable with our taxes is a navigable stream in the eyes of the law. There can be no doubt that a garden hose with sufficient expenditure of millions can be made into a navigable

stream. All of us have had the happy thought that our bathtub is a distinctly private institution. However, some morning we might wake up and find that Congress has appropriated a billion dollars to make our bathtub susceptible of navigation. It might well be that, if immediate possession be taken, the female of the household might be caught in complete undress. Our only hope in that situation is that the administrative agency will be as polite and even as diplomatic as the plumber who unexpectedly walked into the bathroom and apologized to the lady of the house, saying, "I beg your pardon, sir."

To some of us who wore night shirts before pajamas became fashionable, we believed that "the power to tax is the power to destroy," expressing a principle that not only had a nice sound, but recognized a substantial power. However, we learn from a rhetorical justice of the Supreme Court, that this is not a principle, but a "seductive cliche." Many of us have been driven to the dictionary to find out exactly what a "cliche" might be. I am quite certain many lawyers will be mystified, if not mistaken, in the same way as a convivial New Orleans lawyer, who believed that it had something to do with champagne. It took quite some argument to convince him that "Veuve Cliquot" is the champagne, and while it may be seductive, it is not a "cliche."

On the night of April 27th, 1940, we retired, secure in the conviction that "wages" meant a reward for labor and "reinstatement" meant the restoration to a status. At 12:33 on the next day, the Supreme Court confounded the lexicographers by saying, in a Labor Board case, that wages are payments made by an employer to one who has never been employed, for the time spent by the latter in playing pinochle, because of the failure of the Dodge Phelps Corporation to employ him. The court also gave a new meaning to old words when it said that a man who had never been employed must be reinstated in case an employer refused to employ him. The fact that he had never had a status as an employe, and so could never be reinstated, made no difference in the change of the definition.

In the same case, the Supreme Court, in effect, held that if Mr. Phelps Dodge became engaged in a friendly game of bridge with an old school mate who trumped his ace, the latter could refuse to employ him, regardless of the obligation of an old friendship. However, if someone had, in a strike, destroyed $100,000 of the machinery of Mr. Phelps Dodge and had applied for employment and Mr. Phelps Dodge had expressed what might conceivably be a distaste for employing someone who had destroyed his property, he would have no right to refuse him employment, and would have to pay him wages as long as he refused to employ him.

The Supreme Court thereby has set out a method by which anyone might either get employment or wages while not working by advising him that if he destroys someone's property during a strike, he has an absolute right to employment by the owner. There used to be a time, within the memory of man, when the destruction of one's property was not only a good, but a sufficient reason for not giving employment to the destroyer.

It seems to me that the Constitution has been buried deep beneath a weight of new theories and that upon the grave has been laid flowers of fancy, which in certain Supreme Court opinions, have taken the space once occupied by legalistic reasoning. It may be that the Constitution was outworn and debilitated, and it was suffered to exist as some superannuated creature in an intellectual poorhouse. I, however, am one of those who believe that, regardless of the ravages of age which appeared upon its face, it is preferable to the body of new principles.

I am reminded of the experience during the days of prohibition of an Irishman who was about to take a drink of whiskey when his arm was seized by a man who typified that derisive figure of funereal appearance, with a tall hat, adorned with an undertaker's ribbon, the long coat and other habiliments of somberness. This figure seized the arm that was about to bend an elbow and said: "Young man, what are you going to do with that whiskey?". The Irishman replied: "Well, of course, I am going to drink it." The other man said: "Don't you realize what a terrible injustice you are doing to yourself? Don't you know, if you drink that whiskey, that it will burn the lining of your stomach, your gall bladder will become inflamed, your liver shriveled to the size of a peanut, your skin will become wrinkled and brown, and where the traces of youth ought to linger, there will be the evidence of debauchery, and what might have been a fair face of nature will become a horrible distorted countenance that will shame God and man alike?".

The Irishman who had listened attentively, said: "Have you ever taken a drink?". The other replied that God forbid that he should have done so unholy a thing. Whereupon, the Irishman said: "My father was a fine man, he was a moral man, he was a handsome man. Every day of his life, he drank a quart of whiskey and lived to be 92 years old, and after he had been buried, they decided to transplant his remains, and when they dug him up five days after they had buried him, he looked a damn sight better than you look now."

I have the same reverence for the Constitution that the Irishman had for his father, and I am quite certain that if it can ever be dug up, its features will be far fairer than the lineaments of the new theories. But do we want it to die and attempt its resurrection or do we want to keep it as a living force? Do we want to think of it as something within the silence of the tomb or as a voice within the living sunshine? If our way of living is to be kept and traditioned to those who come afterwards, we must preserve constitutional government within the protection of the courts, and the courts must continue to operate within the Constitution.

The attempts at the destruction of the dignity and power of the courts and the substitution of administrative control for its operations threaten seriously the very existence of our consitutional form of government. That the cancerous growth of bureaucratic control, subject to no juristic limitations, has been hidden and slow makes it no less destructive of constitutional rights. The theory that the head of a bureau may determine for himself the meaning of Congress substitutes for the duly elected

representatives of the people the judgment of a single man. It transfers from the trained mind to the politically apt and juridically inept the power to decide personal and property rights.

It can make no difference to the duty of the lawyer whether he believes in the new social theories or prefers the old. It can make no difference to him that there is an honest difference of opinion as to the chosen foundations upon which this government is to continue to exist, but it must make a conscientious difference in his duty as a lawyer, oath-bound, to sustain the dignity of the courts. He must have a fundamental concern as to whether or not the judiciary becomes subservient to the changing moods of organized minorities, or the calm judgment of the jurist is supplanted by an administrative agent, armed with power, but devoid of judgment instructed by legal principles.

It must make a difference, because, wherever there has been witnessed the unholy spectacle of individuals seizing the power of government and bending the will of courts to administrative purposes, there has been seen a government in the throes of dissolution. If rights are not to die on the doorsteps of courts, instead of being given sanctuary within their portals, the power of the courts must be preserved; else the government, which is the repository of order, becomes an asylum for chaos.

Ignorance and indifference in this country have been the means through which the constitutional rights of individuals have been raped and cast, mutilated and helpless, by the road of so-called progress. The teachings of foreign governments have insidiously dug at the foundations of constitutional liberty, and for the stability and the guidance of the law have been substituted the tyranny of bureaucracy. The twin tyranny of labor has also, through legislation, robbed the courts of their protective powers. The fact that the tyranny is many-headed makes it no less tyranny than if it had a single face. It was only through the warnings of Paul Revere that "The British are coming" that the glory of Bunker Hill belongs to us. To us belongs the need to cry that communism is coming, unless, we, as lawyers, too ride the byways and the highways with our warnings.

If we bear these thoughts in mind, it may be that our interests in constitutional right will be stimulated; it may be that by organized effort, the heretical doctrines that have been enunciated and applied can be rendered ineffective. It may be that the theory that the will of governmental agencies should be substituted for the will of the majority, may disappear from our political thinking. It may be that the power of some of our self-constituted leaders of labor may be emasculated, and there may be returned to the citizens the privilege of self-expression. It may be possible to recapture our conception of the right to proceed untrammeled towards business progress. It may be that, for the brutality and the force that has destroyed the right of business to improve, there may be substituted the conception of improvement within constitutional protection. It may be that, instead of some few labor leaders prescribing the conditions upon which the citizen may work, the citizen may secure the right to

work free of the restraints of hoodlumism and unhampered by the fear of personal injury. It may be that the sanity which is the essential ingredient of economic progress will return, and that there will be discarded all of the theories which had their beginning in the oppressions of Europe. It may be that the American way of life, which has become nothing more than a mouthing to hide the ugly features of communism, will become a reality instead of a by-word.

If the Mississippi Bar Association can bring, or help to bring, those things about, then, while there might be a difference in the degree of the good accomplished, they may take unto themselves the pride of having been animated by the same spirit with which the creators of the Constitution were endowed. The preservation of the Constitution is a no less worthy task than was its creation. If it were worthy of being born, it is equally worthy to keep it a vital, living force in the government of this country. If, in those times, it offered an asylum from the oppression of kings, it is equally important that it afford a haven of safety from the dangers of organized minorities. The dedication to that purpose is no less a noble dedication than finds expression in the speech at Gettysburg.

It may be that I have taken too gloomy a view of the changing moods of Congress and the courts, but it is far better that the danger should be exaggerated than that its possibilities should go unnoticed. The views I have expressed are not individual and belong to many lawyers concerned over the trends of the times. Whatever these trends may be and whatever of duty they may demand, I am quite certain that the members of the Mississippi Bar Association will rise to the needs of the duty. The history of Mississippi, starred with names of great men, justifies the hope and warrants the belief that, as long as men of the law can be organized into an association like the Mississippi Bar Association, with a unity of purpose, it will contribute the leaders needed to uphold our constitutional form of government that has been given into our keeping by the army of lawyers who have gone before. In this hope and with this conviction, I leave you with utmost gratitude for an invitation most graciously extended to a member of the bar of your neighboring state and a reception that, because of its hospitality, is unforgetable.

The motion was made and carried that the Bar respond to Mr. Mareno's address with a rising vote of thanks. The meeting recessed, to reconvene at 2 p. m.

AFTERNOON SESSION, JUNE 26, 1941

Mr. J. H. Caldwell took the chair at the request of the President after the President had presented Mr. Gerard H. Brandon, a member of the committee on Jurisprudence and Law Reform. Mr. Brandon submitted to the assembly certain resolutions which had been adopted by the standing Committee on Jurisprudence and Law Reform of the American Bar Association. Mr. Brandon's remarks follow.

MR. BRANDON: Before presenting this report I would like to explain that I am acting as a mouthpiece and not as partisan of any action of one of your committees. Your President asked me, as a member of the Committee of the State Bar on Jurisprudence and Law Reform, to submit to you certain questions and resolutions that have been requested to be submitted to the State Bar by the standing Committee on Jurisprudence and Law Reform of the American Bar Association. Therefore, I desire to make it clear that these questions and resolutions have not been passed upon by a committee of your Association, but are submitted to you, resolving you into a committee of the whole. I am merely presenting the matters to you for your consideration without indicating my own judgment as to whether or not they should or should not be adopted. I will move their adoption in order that there may be discussion, and then you gentlemen and ladies will take such action as you deem best.

The first resolution which we have been asked to submit for ratification by the State Bar is the following, having to do with simplification of procedure in the federal courts, having nothing to do with practice in our state courts, but under the new federal court rules, relating to procedure in the three-judge court. It would apply, for example, when an interlocutory order for injunction is issued without notice to stay the effect of a state statute on the ground of its unconstitutionality, likewise to stay an order of the Interstate Commerce Commission on the ground of its unconstitutionality. It seems that the rules are not entirely clear in this respect as to whether the three judges would have to participate in all of the preliminary proceedings prior to hearing on the merit of application for injunction or reference to a master, and it has been deemed advisable by the American Bar Association that the rules in this respect be clarified in order that one member of the three-judge court would act in preliminary matters other than the appointment of a master or commissioner and other than an actual hearing on the merits of the application.

Therefore, this resolution is submitted to you for your adoption or rejection:

> "Resolved, that the principle be approved by permitting a single judge to take any action permitted by the Rules of Civil Procedure for District Courts of the United States (except the appointment of or reference to a master or the determination of an application for or vacation of an interlocutory injunction or dismissal of the action or entry of a summary or final judgment) in any case required to be tried by a three-judge court, and that the committee to be authorized to submit to the Supreme Court Advisory Committee the question of whether the result can be obtained by the adoption of a rule, and if the Advisory Committee be of the opinion that the matter is not one of practice and procedure that the committee be authorized to advocate a bill substantially in accord with that appended to this report."

Appended to the American Bar Committee report is a form of bill which would embody the desired change.

[Mr. Brandon's motion that the State Bar adopt and approve this resolution was adopted.]

Gentlemen, further, in the 1939 Report of the American Bar Association, Vol. 64 page 209 *et seq.* is a report of the standing Committee on Jurisprudence and Law Reform. That committee adopted several recommendations, and they recommended that the several State Bar Associations approve and endorse their action for such influence as it may have on Congress in the enactment of legislation.

I will submit several of the resolutions without further explanation. I will submit them separately for your action, asking your consideration. The next resolution reads:

> "Resolved, That the Association approve in principle the establishment of a system of public defenders in the federal courts."

The question submitted to you is whether or not the Mississippi State Bar ratifies that resolution of the American Bar Association. I do not know a great deal about it, but the idea is that just as we have United States District Attorneys, we should have United States District Defenders. That has been found necessary in some of our larger, more thickly populated communities. I invite your consideration to whether or not that would be of interest to the Mississippi State Bar. I understand that the system of having public defenders has been adopted in some states, notably Ohio and other industrial sections. Where the state always employs a district or prosecuting attorney there is, for persons unable to obtain counsel when charged with crime, a public defender whose duty it is to defend such person, just as it is the duty of the district attorney to prosecute. The question is whether or not that system should be adopted in the federal courts.

[Mr. Brandon's motion that this resolution be adopted was approved.]

The next resolution is this:

> "Resolved, That the Association approves in principle an act bringing pistols and revolvers within the scope of the National Firearms Act thus requiring all weapons to be registered, and imposing a nominal tax on their transfer."

Frankly, I do not like that. I happen to have a pistol. I am sure I would forget to register it, and I would hate to have to pay the tax.

However, I move the adoption of the resolution.

[The motion was lost in spite of the remarks of Mr. Allen in favor of its adoption.]

I think we should adopt the next resolution, in view of the fact that the government has entered so many types of business; our defendants are becoming rather scarce, and we have to look the field over closely to determine against whom we might institute some suit. I think this reso-

lution should be adopted, and frankly, I never could see any reason for exemption of the sovereignty from suit for tort committed by the sovereignty or its authorized agent or representative. The resolution is as follows:

> "Resolved, That the Association approves in principle an act permitting the United States to be sued in tort in respect of claims for property damage or personal injuries due to the negligence of government officers and employees in the performance of their duties."

I move the adoption of that resolution.

[After being amended to include state and governmental subdivisions, the motion was adopted.]

The next resolution is designed to avoid delays in prosecution or commitment—punishment of offenders—when the offender is ready to plead guilty. It will cut down some expense in the operation of our federal courts.

> "Resolved, That the Association approves in principle an act permitting one accused of a crime against the United States to waive indictment by grand jury and to consent to prosecution by information."

I see no reason why indictment should not be waived by a person charged with crime and go to trial upon information. I therefore move the adoption of the resolution.

[The motion was adopted.]

The next question has been frequently discussed by lawyers as an abstract proposition. It is my own personal opinion that in criminal cases the state or the United States should have the same right of appeal that a defendant would have in a criminal case: that is the purpose of the resolution.

> "Resolved, That the Association approves in principle an act extending the criminal appeals act, so as to permit the United States in criminal cases, to appeal from any order sustaining a demurrer or a like pleading."

That would not extend the right of appeal resulting from acquittal on final hearing but on matters of demurrer and similar pleading.

I move the adoption of the resolution.

[The motion was adopted.]

The final resolution has to do with the proceedings and the matter in which you might take steps to remove from office federal district judges for misbehavior. There is some question, apparently, as to the constitutionality of the act proposed by the American Bar Association. Some suppose that such an act would be constitutional. I will read it to you for what it is worth.

"Resolved that Congress enact legislation providing for civil trials without a jury upon the issue of good behavior of all federal judges except the justices of the Supreme Court of the United States by three judges of the Circuit Court of Appeals wherein the accused judge resides, to be designated by the Chief Justice of the Supreme Court of the United States upon resolution of the house of representatives that reasonable ground exists for the institution of suit by the attorney general, to determine whether the behavior of such accused judge has been other than good behavior within the meaning of that term by Section 1 of Article 3 of the Constitution. If the accused judge be a circuit judge, no judge of the same circuit shall sit on the court to determine the question of removal from office. An appeal shall be allowed either party within thirty days after the rendition of the judgment, on both law and facts, to the Supreme Court of the United States."

I am informed that a bill of this character has been pending for two sessions in congress but has not been reached upon the docket.

I personally have no conviction as to whether such a law would be a desirable one or not. I am merely presenting the question for your consideration, and I move its adoption.

[The motion was adopted.]

I thank you for your patience.

Mr. B. B. Allen then presented to the assembly a declaration of policy and a resolution. The declaration of policy and the resolution follow.

DECLARATION OF PRINCIPLES AND POLICIES

We, the Lawyers of Mississippi State Bar, in convention assembled, at Gulfport, Mississippi, the 26th day of June, 1941, hereby announce the following Declaration of Principles and Policies, towit:

The welfare and stability of this country is dependent upon the united, unselfish support of all our citizens in preparing this Nation for defense against the enemies of our way of life.

We declare that it is not the right of any man or group of men to place the interest of themselves or their group ahead of that of the common weal.

That any man or group of men who undertake to exact profit for themselves or their group from a Government in peril has no right to claim the protection of its laws.

That it is the duty of the Government to weed out from every group all subversive elements and to deprive those gangsters and racketeers who

are seeking to delay us of the right to stir up trouble and cause stoppages in our National Defense.

That no man, nor group of men, have the right to claim the protection of the Constitution of the United States who are seeking to destroy that Constitution and the rights and liberties for which it stands.

That there shall be no abridgement of the right to work, nor shall there be any requirements of our citizens that they pay tribute to organizations that are out of harmony with the American way of life.

That every American citizen willing to work shall be guaranteed that right unhampered by threats of any racketeers or subversive elements.

It is ordered that a copy of this Declaration of Principles and Policies, together with the following resolutions, be sent to the President of the United States and to our representatives in Congress from Mississippi:

RESOLUTION:

WHEREAS, this country is engaged in a gigantic effort to prepare itself for defense of our very existence, and it is necessary that we have the united support of the whole citizenship of America in this great undertaking; and,

WHEREAS, there are certain elements of our people who are thinking more in terms of personal gain than they are of National Welfare; and

WHEREAS, it is apparent that there are certain elements within this country owing their allegiance to our enemies who are holding up our entire program and interfering with our National Defense; and

WHEREAS, if the people of this Government are to continue to enjoy the American way of life, it is necessary that these interferences cease, and that the Government take positive and immediate steps to put an end to stoppages of all kinds;

THEREFORE, BE IT RESOLVED, by this Convention, that we call upon the President and the Congress to enact laws with teeth in them, at once, outlawing strikes and interferences in defense industries, and guaranteeing to every man the right to work, and protecting him in the enjoyment of that right, so that every citizen desiring to work is given that right and fully protected in the full enjoyment of that right, and that the Government immediately weed out and confine subversive elements wherever found to the end that enemies of this Republic shall hereafter be deprived of the power to interfere with the program and welfare of this nation, in order that the people of this nation may work as a unit to the attainment of our goal.

In favor of the resolution, Mr. Allen made the following remarks.

MR. ALLEN: Mr. President, I think the time has come for this group of patriotic men and women assembled here, like similar groups all over the country, to speak in strong, plain and unmistakable language and

make our voices heard, where it will be most effective. We should no longer be left at the mercy of an organized group largely dominated by subversive elements. The great masses of American people have a right to protection and have a right to be heard. I think that an expression from this group, whether in this language or any other, expressing this sentiment, would be helpful in upholding the hands of our President and Congress, who are working so faithfully for our protection.

I move its adoption.

A suggestion that the word "Association" be changed to the "Mississippi State Bar" was accepted, and the declaration of policy and the resolution were unanimously adopted.

The report of the Committee on Public Relations was presented by Mr. Ross R. Barnett.

REPORT OF COMMITTEE ON PUBLIC RELATIONS

I bring the regrets of Honorable George Currie of Hattiesburg, Mississippi, Chairman of the Public Relations Committee, that he is unable to be here today to make the report of the Public Relations Committee.

There is not much report that I can make as to what the members of this committee have done.

To tell the truth, we have not done much. We have met two or three times, written lots of letters, and we think we have accomplished a little, but the truth about it is we have not done a great deal. As Mr. Geisenberger said at our last forum, there is lots to be done.

At our first meeting, we decided that there was a little too much unfavorable publicity about the lawyers, and we wondered if there was anything that the Public Relations Committee could do about it. We adopted a resolution to the effect that we would ask each local Bar Association to have the lawyers in each county do everything in their power to present to the people of Mississippi just what the lawyers have done.

I am glad to say that the lawyers of the Sixth Judicial District of Mississippi offered a prize to the high school senior who would write the best essay on the subject of "The Responsibility of the Lawyer to His Community." I am so much impressed with the prize-winning essay written by Miss Lillian McElroy, a senior in the Natchez High School, that I am going to ask permission of the body to read them the selection.

THE RESPONSIBILITY OF THE LAWYER TO HIS COMMUNITY

LILIAN MCELROY

To the cave man the law was symbolized by brute strength, his environment necessitated that strength be his criterion; each man was a law unto himself. Soon, however, he realized there was greater protection from the evils and dangers that constantly beset him in numbers. Then came the demand for laws to govern a community, and thence arose leaders to make and execute these laws. From that far day to this lawmakers and those who expound the law have been leaders in their communities. And so the greatest responsibility of the lawyer to his community, as I see it, is to be a leader in right living, a living exponent of the law.

This quotation from the Law of Laws, the Bible—"The law is good, if a man use it lawfully"—might be taken as a basis for the responsibility of a lawyer to his community. First, the lawyer must prove that the law is good. Despite the unlimited trials, despite the sins of countless thousands today, the ten commandments, the good laws, stand supreme. Today these splendid rules upon which the laws of human conduct may be founded are not out of date.

Surely the fierce, unconquerable courage of the leaders of the past still glows in the hearts of the leaders of the present. Out of the pages of history march one by one: Moses, Hamurabi, Cicero, Charlemagne, Burke, Fox, Washington, Jefferson, Jackson, Webster, Clay, Calhoun, Roosevelt, and Wilson. Through the surging and often bloody struggles of man's existence, these great men upheld the law, proved its strength, its goodness, to their countrymen.

Now who knows from whence will come tomorrow's heroes—the known and unknown. Perhaps tomorrow's hero will be today's lawyer—the leader who by his life guides and teaches his community the kindly wisdom of the law. The lawyer must not live for his own glory alone; there must be that inborn quality in him which makes him want to prove to his community the goodness of the law for their own sakes. For the true leader is not an egotist; his outlook on life is unselfish, broad, and kindly. He feels the urge to lead his community along the straight and narrow path of righteousness. Threats of punishment are not the composite substance of his teachings. Indeed he makes the reward of obedience seem the only possible course when he appeals to the better nature of mankind.

The leader has all the assurance of past conquests of good over evil to rely on. So to him the task is not impossible because the glorious triumphs of the past have proven that there is a vulnerable side to all wickedness, that men may prove the goodness of the law. Therefore I believe that today's lawyer should have the inherited courage of the past, and that he should strive to lead his community to see the goodness of the law.

Second, the lawyer must "use it [the law] lawfully." When the Lawyer becomes known as a "smart" lawyer, an evil day has come to his profession and to his community. Because of the dishonesty and trickery of petty politicians and "smart" lawyers of the past and present, the law profession has received a persistent taint. The guileless and the wicked have craftily been taught how to *get* out of trouble instead of how to *stay* out of trouble. In the minds of men these actions have created an impression of the lawyer as a twister and trickster of the law's honorable and ancient principles.

This is a conception of the law and lawyers that lawyers of today must overcome; it will not be an easy task. A famous testimony to the possibilities open to a lawyer in leadership is this: In the early days of America, when the colonies were struggling to establish a nation, the lawyer was not always the leader in the community. The plumber, the banker and the wealthy merchant all had seemingly more prominence in colonial affairs. But it is a notable fact that out of fifty-five members of the Constitutional Convention thirty-three of the members were lawyers.

The Constitution of the United States is one of the greatest documents in the world—it is the basis of all law in this country. Lawyers helped to make it, should it not be their greatest responsibility to show by precept and example that "the law is good" and that a man should and can "use it lawfully"?

Mr. Barnett's motion that Miss McElroy's essay be published in the Mississippi Law Journal was carried after being seconded by Mr. G. H. Brandon. Mr. Barnett closed his report by commending the sixth judicial district for the essay contest they had conducted and by suggesting that each judicial district in Mississippi conduct a similar contest.

Mr. R. M. Kelly, Chairman of the Committee on Coordination, informed the Association that the committee had not functioned and had no report to make, but he requested additional time to contact the other members and prepare a report. A motion was made and carried to grant the request.

The report of the Study Committee was presented by Mr. Landman Teller on behalf of Mr. Harry M. Bryan, the chairman of the committee, who was absent.

REPORT OF STUDY COMMITTEE

Your Committee regrets that, due to unavoidable circumstances, it was not able to hold a formal meeting since its appointment. However, the members of said Committee, whose names are below subscribed, beg leave to report as follows:

The attention of the State Bar is respectfully directed to Section IV, paragraph I, of its By-Laws:

"1. The Board of Commissioners shall appoint a committee known as the Study Committee whose duty it shall be to suggest to the Bar subjects for investigation and study looking toward the improvements of the courts, the law and the administration of justice, and the said committee shall receive and consider suggestions relatives to this from members of the State Bar. It shall be the duty of such committee to report their recommendations to the annual meeting of the State Bar."

It will be noted that it is therein stated that it shall be the duty of the Study Committee "to suggest to the Bar subjects for investigation and study. . . ." It further provides that it shall be the duty of the Committee "to report their recommendations to the annual meeting of the State Bar."

Some confusion has resulted from the fact that this by-law is susceptible of two constructions. One is that the prime duty of the committee is to make suggestions of subjects for study. Another is that it may go further and, in addition to making suggestions, may make any recommendations to the annual meeting that it sees proper.

The signors of this committee report recommend a clarification of this by-law by an appropriate amendment, according to the nature and scope of such duties as the Bar may wish its Study Committee to perform.

It has been suggested to this Committee by several members of the Bar that a study be made of the growing number and expense of law books, with particular emphasis upon the reporting and publication of Mississippi decisions. The Committee was asked to inquire whether members of the Bar would be interested in subscribing to advance sheets, containing such decisions, in event the same should be issued by the publishers of the official reports. We recommend that such study be made, by and through such agency of the Bar, as may be determined.

Other suggested topics for study have been received by this Committee but we have found that they are substantially embraced within fields already explored, and in some cases, debated. Reports of such studies have been made heretofore and we do not feel that any useful purpose could be served by any recommendations on our part with respect thereto.

Respectfully submitted,

Harry M. Bryan, Chairman,
Landman Teller,
Hugh N. Clayton.

On motion of Mr. Teller, the report was adopted.

Mr. Fred J. Lotterhos presented a report on the American Law Institute.

THE AMERICAN LAW INSTITUTE

I want to present to you very briefly an outline of the proceedings of the American Law Institute at its 19th annual session. When I looked at that number, 19, it startled me to realize that the American Law Institute had gone along that number of years. In that time, it has become a substantial factor in the jurisprudence of this country.

First, I would like to outline the actual proceedings themselves. I had the pleasure of attending the last two days of the four-day session, which occurred in Washington May 6-7-8-9 of this year. At those discussions the four principal topics were certain phases of the law of Judgments, the law of Security, a proposed Code of Evidence (recommended as a statutory code for adoption), and a Youth Correction Act which is recommended.

That part of the discussions dealing with the proposed Code of Evidence occurred prior to my arrival. I understand from my friend, Mr. Triplett of Forest, who was there, that the discussions were very interesting, and that quite a bit of controversy arose.

One point of debate was a proposed drastic revision of the hearsay evidence rule, the idea being to try to make evidence in court comport more nearly with the kind of evidence on which a reasonable man acts in actual life, or, in other words, to permit the use of hearsay evidence, under reasonable restrictions and with a good deal of leeway as to the weight to be given that type of evidence.

As to the law of Judgments and Security, the discussions were of more or less technical phases of that law.

I might say with reference to the proposed Youth Correction Act that the Institute is doing a very fine work there in trying to work out a uniform statute whereby those charged with crime who are under the age of 21 years would be tried and handled after conviction by a special form of procedure, and more or less special courts, and whereby an attempt would be made to make useful citizens out of them rather than to make hardened criminals. They are working in the right direction on a matter of interest to all citizens.

The sessions were opened, as has always been the practice, by a short address by Chief Justice Hughes. I have attended two of these sessions in prior years and have heard his addresses, and they have always been one of the highlights. He always has something fine to say. His remarks have impressed me, not only because of his position, but because of the tremendous personality which he possesses.

Another highlight of the Institute every year is the annual banquet on Thursday night. I had the pleasure of attending it this year. It was held in the Mayflower Hotel, where the sessions are held. At that banquet they always have some of the outstanding speakers of the country, or other nations for that matter.

This year a surprise was sprung on the Institute, which was one of the most interesting experiences I have ever had. The regular program began with an address by Honorable Hatten Sumner, Chairman of the Judiciary Committee of the House, who made a pertinent talk on the critical necessity at this time of people realizing that there is one thing to come first and that is being prepared and getting ready.

The next address was by Judge Dobie of the Circuit Court of Appeals. I especially enjoyed it because he was one of my law professors.

It was then announced that there was a surprise visitor, and he was introduced, being Sir Wilfred Arthur Green, Master of the Rolls, one of the highest judicial officers of England. He had just flown to this country for a brief visit. He made us a talk, straight from the shoulder, about England's situation today, particularly with reference to the law. He stated that, notwithstanding the conditions which the English people face, their important legal principles and rights are being preserved and safeguarded so that they may be in full flower at the end of the present war. Many of you perhaps have read Sir Wilfred's address, made on another occasion, printed in the American Law Journal of last month.

As to the work of the Institute, it has just about accomplished the main body of what it set out to do. Certain subjects are still under way, one of them being certain phases of the law of Real Property.

Carnegie Corporation, which finances the work of the Institute, has made an additional appropriation of $164,000, which is to be supplemented by annual dues of the members in the amount of $10.00. Up to this session there had been no dues at all. With these funds, the Institute will be able to complete those topics which are now under way and keep its organization intact for such further work as may be found necessary.

Now just a word about the Institute. I have been interested in it for a good many years. I have a feeling that the lawyers of Mississippi as a whole—I hope I am wrong—have not really appreciated what a valuable and worthwhile thing that Institute is.

As the law has grown and as rules have become conflicting and ever-changing, we have all realized that there is almost an imperative necessity of some central guide to our jurisprudence so that it may not become so complicated and conflicting that nobody will know where he is. Here is all in the world that the American Law Institute has endeavored to do, and I think it has done a good job. It has tried to take the important phases of the law and put the best legal minds in the country to work, with plenty of time and all of the tools that they need, to try to write down in one straight-forward text, not an encyclopedia, which would cite the cases or show the conflicting rules or minority view, the best and soundest rule. We have the Mississippi law and we follow it, but, as we all know, every day and every month questions are coming up which have not been settled by our court, and where the cases from other jurisdictions are in hopeless conflict. Sometimes the weight of authority is contrary to sound common sense. The work of the Law Institute enables the court and the lawyer in

such a case, where there is not an established rule to follow, to turn to the applicable part of those texts and read there what is the best, the soundest, the most logical, the most practical rule, according to the best legal minds of the country. There is an inducement, more and more, for the courts of the land, in case of doubt or wherever decisions do not control, to follow that guiding light so that the laws may be more uniform among the states.

Just a word about how the Institute works, and I will not take any more time. It is a voluntary organization. The only paid people are, of course, a small administrative staff that it has to carry on the clerical details, and possibly the reporters, who certainly should be paid.

When the Institute begins work on a certain branch of the law, a reporter is employed and possibly one or two assistants, who are outstanding men in that field of the law—law professors who have made it a life study. Those men work out a tentative text. Some questions are so well settled that they simply phrase them; there are others where they might choose one of several doctrines, and in such cases they work out the soundest and best rule. They then report to and work with their Advisory Committee of practicing lawyers and judges, men selected for their peculiar ability and willingness to work in order to improve our jurisprudence. Then from that committee work they finally write up and prepare a tentative draft of some small portion of the law which they are satisfied with. They then come to the Council of the Institute, which is a small group, and they meet and discuss and criticise and change it, and it goes back again and the Committee and reporters work it out. It comes back then to the Council, and finally to the Institute as a whole, where it must finally be approved. When the text is finally adopted, it is the best that they can work out. As finally adopted and printed it comes out to you in the Institute Reports.

I want you to know that those men, all the way through, are hand-picked, reporters and members of the Council. They know they have serious work to do. They do their dead level best and you can rely on the Institute work as being thorough.

Just a word about the practical application of the Institute's work. Our courts are recognizing it more and more, falling back on it. As evidence of the fact, at the present time the publications of the Institute have been cited over 6,700 times by the appellate courts of this land, and over 2,000 of those citations have been within the past year. The Institute publications are worthy of your study and of your use because they are a sound and safe guide.

Many lawyers have criticised the publications because they do not like the language, the terminology. I would like to explain that to you. They have tried in preparing these reports to avoid the use of legal terms which do not have a concise and accepted meaning. In order to avoid any uncertainty about the meaning of the text, they have in many cases adopted a simplified terminology, and have defined those words at the beginning of each text. If you will take the trouble to read the definitions at the be-

ginning and keep those definitions in mind as you read these Institute texts, you will have no difficulty in understanding the meaning. They have attempted to eliminate all uncertainty in the expressions contained in the work.

I believe the work of the Law Institute has been well worth while, and that you will see in years to come that it is going to be the most important part of our jurisprudence, next to the controlling decisions of our own courts and our own statutory laws.

The report of the Membership Committee was made by Judge Leon F. Hendrick.

REPORT OF MEMBERSHIP COMMITTEE

At the meeting of the Bar Commissioners held at the University of Mississippi a few months ago, we discussed fully the question of our delinquent membership. We decided that since it was a law that all lawyers should be members of the Mississippi State Bar and that it was mandatory they should pay annual dues of Five Dollars, it was not fair for some of us, year after year, to support the Mississippi State Bar and do nothing in reference to those lawyers that were delinquent, some of whom had been delinquent since this Mississippi State Bar was established.

There was appointed a committee of three to look into this question and take whatever action was necessary. That committee was composed of Judge Everett of Indianola, Judge Huff of Forest and myself. We met and we decided to write a letter to the delinquent members. The response was very fine. Still, we were being ignored by many others. Our attitude was one of sympathy. We took the position that if they could not pay in full, they should be given the opportunity of paying as little as $5.00 and writing a letter to our Secretary, telling her how the balance could be arranged, so some definite commitment would be made. We found, however, that there were many who did not respond at all, and this small committee decided to report back to the Bar Commission and tell the Commission it was too big a job for three members to do well. That meeting was held in Jackson, and as a result, your President appointed a committee of about 14 or 15 members, one from each judicial district.

Later we had a meeting; we were given power to do whatever in our judgment was necessary to be done. We decided that each member in his respective district should contact delinquent members, sit down with him, talk the question over and see if he could not get the proper cooperation. That was done and the result was very good in many cases, but we decided that after all these things were done, and still they did not pay or make any effort to pay or write a letter stating that they wanted to pay as soon as they could, then some action should be taken against them, as authorized by the statute. It was decided that these actions should be filed somewhere around the first of June, and already some of the petitions have been filed.

There has not been a meeting of the committee since the middle of May or the first part of May, and I do not know exactly how many of these petitions have been filed, but we will probably have a meeting during this session, or just as soon as we can, and go ahead and bring this matter to a successful conclusion.

You will be interested in this short report as to figures.

On February 14, 1941, there were 227 lawyers listed as delinquent on the records of the Mississippi State Bar. This represented $3,455 in outstanding dues. Since that time, through the efforts of the committee appointed by the president to handle the matter of delinquencies, 106 of these members have paid their dues in full; 21 have paid in part. $1,235 has been collected.

This leaves 107 lawyers delinquent and $2,015 in outstanding dues.

Fifteen of the members shown as delinquent were not practicing or had gone to the army. Two had died. In making the proper corrections with regard to these members the back dues were reduced $210.

The expense of the committee was $109.25.

Mr. Ben H. McFarland then presented the report of the Complaint Commissioner.

REPORT OF COMPLAINT COMMISSIONER

Since our last annual meeting fifteen complaints have been filed and four were carried over from last year. Three of the complaints that were carried over from last year could not be adjusted by the Complaint Commissioner and were referred to the entire Board of Commissioners. The Board referred these complaints to special committees and three have been settled, and one is still pending. Of the remaining fifteen complaints, twelve have been satisfactorily settled by the Complaint Commissioner and the remaining four are being given proper attention.

Respectfully submitted,

Ben H. McFarland,
Complaint Commissioner.

Mr. Phineas Stevens, Co-editor of the Mississippi Law Journal, presented the report of the Journal. He directed the attention of the Bar to certain changes in the editorial policy and in the physical make-up of the Journal and then read the financial report of the Business Manager.

FINANCIAL REPORT OF THE MISSISSIPPI LAW JOURNAL VOLUME XIII

RECEIPTS

Appropriation of State Bar Association	$2,000.00
Law School Assessment	198.00
Sale of Back Numbers of the Journal	194.00
Subscriptions	207.60
Cash Advertisements	496.00
Accounts Receivable	54.00
Balance Brought Forward	26.92
Total	$3,176.52

DISBURSEMENTS

Printing and Distribution of Journals:

Vol. XII, No. 5	$590.79	
Vol. XIII, No. 1	501.98	
Vol. XIII, No. 2	583.23	
Vol. XIII, No. 3	703.08	
Vol. XIII, No. 4	674.10	$3,053.18
Misc. Exchange and Banking Expense		19.00
Postage, Box Rent and Expense		33.00
Stationery		23.14
Office Expense—bookbinding, purchase of Journals, construction of book cases, and typewriter repairs		12.00
Surplus		36.20
Total		$3,176.52

J. Louis Alford,
Business Manager, Volume XIII.

The report of the Finance Committee was presented by Mr. O. B. Triplett.

REPORT OF THE FINANCE COMMITTEE

I might say, before giving you the report, that our committee went back over a ten-year period, and it is encouraging to note that each year the number of delinquent members has grown steadily less, and, as Mr. Hendrick says, it is down to 109. Our total receipts each year has also steadily increased, and at the end of the year 1941, as of May 30, 1941, we now have on hand a balance of $1,208.84. To give you a comparison of the last year's receipts and disbursements, I will take up the receipts and follow with the disbursements.

The estimated budget for the year to come as reported by our committee to the commissioners and as adopted last night at a meeting of the Bar Commissioners is as follows:

Office Expense $800
That is a reduction of $35 as compared with last year.

Convention Expense $450
That is about $130 less than the cost of last year's Convention but more in line with the expenditures made for previous conventions.

Commissioners' Expense $700

As to this item our committee recommended, and the Commissioners have also voted and approved, a method by which the expenses of commissioners may hereafter be fixed. The recommendation will be included in the motion to adopt this report—that instead of allowing each commissioner to send in his expense bill to be made by himself, that they all be paid five cents a mile each way as their expenses in attending the meetings, which includes all hotel bills, meals or whatever expense he may be put to. Thus there will be a yardstick by which it can be easily ascertained what his expense would amount to.

Mississippi Law Journal $2,250
Junior Bar Section 250

We felt that the fine work the Junior Bar Section is doing entitles them to an increase in the amount they have heretofore been allowed to expend.

Committee Expense ..... $ 150
which is a reduction.

Secretary's Salary $2,100
which is the same amount as was paid last year.

The total amount of the proposed budget is $6,700.

The estimated receipts, as estimated by the committee with the help of the secretary, amount to $6,800.00, together with the balance on hand of $1,208.84, which would make a total of $8,008.84.

Mr. Triplett's motion that the report be adopted was passed.

The President, who took the chair during the course of the report from the Finance Committee, introduced Mr. Jerome A. Cooper, Regional Attorney, United States Department of Labor, Wage and Hour Division, who addressed the convention. Mr. Cooper's remarks follow.

THE WAGE AND HOUR LAW

JEROME A. COOPER

The Wage and Hour Division is indeed grateful for the opportunity of meeting with you. In fact, we deem it one of our important functions to meet with and get before representative groups of all kinds in order that information we may have, and which may help others, can be distributed. We also appreciate, and profit by, opportunities to exchange views and to learn what others are doing under the Act which we administer.

There is a little story, to which I have referred before, but which I rather like to utilize at the outset of any such occasion as the present. I don't suppose it is out of order for me to mention it.

We have an inter-departmental rule in the Wage and Hour Division that those of us who are in the field must, wherever possible, report in advance any proposed public contact. Not so long ago, I reported to one of my superiors my intention to meet with a group, in many ways similar to your own, and to speak generally on the Act. Ordinarily, I get no response to such routine notification. On this occasion some wanton mixture of humor and understanding prompted him simply to reply—"You are a brave man."

Now, I don't believe that one in my position can, except facetiously, be referred to as "brave" on account of what we are doing.

We are, as you know, charged with the responsibility of administering a piece of national legislation, and the size of that job is obvious. I should like to emphasize the word "national." And as part of that emphasis it is interesting to note that the Wage and Hour Law was in part fathered by, was fought for on the floors of Congress by, and has since been defended by Southern men.

This Act represents a truly national effort; the factors motivating that effort are set forth in Section 2 of the Act. In sum, Congress, after extensive hearings and acting for the Nation as a whole, found that:

> . . . the existence, in industries engaged in commerce or in production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce . . . ; (3) constitutes an unfair method of competition . . . ; (4) leads to labor disputes . . . ; and (5) interferes with the orderly and fair marketing of goods. . . .

Quite consistently with those national motives embodied in the Act, it has nevertheless been the procedure in this region, as in others, to appoint men who are deemed thoroughly familiar with conditions in the areas in which appointments are made. Many of us who compose the representa-

tives of the Division in this region of Alabama, Louisiana, and Mississippi, are persons born and bred in these States. There are native Mississippians among us. And we are all united in an attempt to perform a job in a professional and objective manner. It is a job, the completion of which we sincerely believe will serve the best interests of our Southland and the best interests of our Nation.

Although, as I have said, this Act is a part of our national law and concerns all of us, there are three groups whose interests in the Act loom large.

Employees are interested in their rights created under it.

Employers are interested in their duties and obligations imposed by it, and in their right to have their competitors comply.

Lawyers are interested in the proper and orderly adjustment of those rights and duties and obligations according to the democratic procedures afforded by our system of responsible administration and public law.

In the Division, we make a sincere effort to pursue a policy of openness, fairness, and thoroughness in our dealings with those affected by the law. We patiently listen to both sides of a story. Both employer and employee, when necessary, are given full and complete hearings before the Regional Director, through whose offices all enforcement activities pass.

No arbitrary actions are taken, no snap judgments are rendered. We wish to merit, by our dignity, fairness and honesty in office, that public respect without which successful public administration is impossible.

Let's take a look at what this Act generally does. Ordinarily, in speaking to the various groups of the public, I come armed only with a copy of the Act. That is really what all the talk should concern, particularly when a group of us lawyers meet together. I spoke a moment ago of the motives of Congress as indicated by the conditions enumerated in Section 2 of the Act. To eliminate those conditions minimum wage and maximum hour standards are established. Section 6 provides the minimum wage. Section 7 provides for overtime if hours in excess of maximum workweeks are worked. Section 11 requires employers to keep records of wages paid to and hours worked by their employees; and there are regulations of child labor.

The Administrator is authorized under Section 17 of the Act to institute suit to restrain violations of the Act's provisions. Also, violations of these and other provisions of the statute are made criminal offenses, punishable by severe penalties.

In addition to these sanctions, Section 16(b) of the Act creates a right of action and provides a remedy for any employee affected by a violation of Section 6 or Section 7 of the Act.

Those of us who serve as attorneys in the Wage and Hour Division are concerned, to a substantial degree, with the problem of litigation on behalf of the Division.

It bears repeating that the successful administration of any statute depends upon the respect for it that can be inculcated in the public. In administering the Act we have called upon those industries covered by its provisions to clear up any violations which may have accumulated since the law became effective. We have encouraged employers to pay their employees any back wages and overtime compensation which had accrued as a result of failure to abide by the Act's provisions. We have insisted that accurate and adequate records be kept.

And while this has been going on, we have conducted an educational campaign utilizing every means at our disposal, radio, newspapers, letters, interpretative bulletins, and other media. In a forthright spirit of cooperation we have sought to replace ignorance and misunderstanding with clarity and appreciation of the law's requirements.

But it has proven equally important to the effective enforcement of the Wage and Hour Law that the inevitable minority which declines to operate in compliance with its terms, be forced, through legal proceedings, to pay the minimum wages and the overtime which Congress prescribed.

No matter how good a law may be, no matter how high its motives, it does not accomplish its purpose unless obeyed and enforced.

You cannot achieve for workers the proper minimum wage and overtime compensation merely by passing a law. Nor by passing a law can you protect honest employers who comply, against the illegal and unfair competition of those who do not comply. Just as there was a group of employers whose labor practices made the passage of this law necessary, so there is a small group which makes it necessary to resort to the courts to compel obedience.

I have referred to the provision in the statute for injunctions. The administrator has brought violators into the Federal courts and has obtained orders that they must not violate the Act again. At first blush, that might not appear a very effective method of enforcement because when the Government is through and has won its case, it has merely obtained an injunction of the court directing the employer to do what the Act tells him he must do anyhow. But this overlooks the important fact that, by the injunction method, the Administrator may tie up "hot goods"—goods manufactured in violation of the law. An employer thus enjoined is prevented from selling those goods in interstate commerce and, in many cases, such injunction has shown itself a very effective way of achieving compliance. In addition, if the employer violates after the Administrator has secured an injunction, he may be subject to contempt of court proceedings for violation, not of the act of Congress, but of the specific order of the court.

There remains the possibility of criminal action. What is true of most legislation of this type is no less true of our Act; unfortunately, in general, you cannot enforce a statute unless there is provision for criminal prosecution of flagrant violators, and this Act makes it a crime wilfully to violate its terms. In other words, where violations have not been accidental

or due to ignorance or misunderstanding, but have been deliberate or flagrant, the Attorney General and the United States Attorneys have the power to prosecute such violators. Substantial fines may be imposed for the first offense and jail sentences punish second offenders.

You will also recall that I referred to the employees' right under Section 16(b); this is another provision of the Act which makes violation prove unprofitable to the employer. An employee who has not been paid properly may bring his own lawsuit either in the State or in the Federal courts. He recovers double damages and in addition, a reasonable attorney's fee. You can readily see that it might cost an employer a great deal of money to ignore the law, since, in addition to the possible injunction and the fine, the employees could themselves sue and recover not only the amount of their legally earned but unpaid wages, but an additional equal sum.

There have been a large number of employee suits in which the employees have recovered with double damages. Unfortunately, however, these employee suits have not always been well founded, and because of faulty preparation, or because the employee was not covered by the Act, or was not able to prove that he was underpaid, some suits have been lost.

We would like to emphasize our feeling that it would be well for employees and their attorneys to consult with attorneys for the Wage and Hour Division before they file suit. We have, in our regional and State offices and in Washington, attorneys who have done nothing else during the last two and a half years but study this law, try cases under it, and, in fact, live with it. If we are consulted, our attorneys can be helpful in more ways than one. They can be helpful not only by making useful suggestions in meritorious cases, but also by giving sound objective advice not to bring suit where the claim is unfounded and the chances of success are slight. While the right to bring these lawsuits is a vlauable one to employees, it must be remembered that abuse of the privilege might well serve to discredit the law itself.

There is another phase of litigation under the Act with which you, as lawyers, are particularly concerned. Litigation serves the important purpose of clarifying the meaning of the law. The Administrator does not, as you understand and as we have consistently said, have the right, in the final analysis, to say what the law means. That must be done by the courts. This is a new law of far-reaching significance, and by threshing out in the courts debatable questions, employers, employees, and the public have an opportunity to find out just what the law means in numerous situations which are not free from doubt.

There have been a good many important decisions already, and additional questions are being decided by the courts almost daily. The Supreme Court itself has, of course, removed all doubt of the constitutionality of the Act and the important procedure whereby the Administrator issues orders setting, for particular industries, higher minima than thirty cents an hour.

Important decisions have been rendered as to just which employees are engaged in interstate commerce or in the production of goods for commerce.

In the limited time at my disposal, it is obviously impossible to detail the Administrator's view of the coverage of the Act in the many differing types of cases which arise under it. In the case of an employee engaged in producing crude oil which was sold to and refined within the State of production by a refinery whose products were shipped out of the State of production, the court said interstate commerce began when the crude oil, through the effort of the employee, "first moved in the pores of the restraining sand stratum."

At the other end of the stream of commerce, it has been held that certain employees engaged in the distribution within a State of goods shipped to that State in interstate commerce, may be engaged in activities which constitute "a part of the whole of commerce between the several states."

Thus, many of the Administrator's interpretations on disputed issues have received judicial approval. To be sure, there has been some conflict of opinion, and many questions arising under the Act are no doubt on their way to the Supreme Court for final answer.

Litigation has served not only the interests of employees, for whom the benefits of the Act are sought, but it also gives important protection to employers who are obeying its provisions and maintaining proper labor conditions in their businesses.

Unless their competitors are made to observe decent wage standards, the better business men will suffer from ruinous competition based upon illegally low wages. As a matter of fact, the protection of the fair employer against such competition was one of the principal reasons why this law was passed. It also is one of the principal reasons why the Government must be constantly alert and prepared to prosecute vigorously the minority who even now fail to comply with the modest wage and overtime requirements.

By intelligent enforcement procedure, by education, by litigation when and if necessary, we think the Wage and Hour Law and its benefits are being brought home to the South.

We in the Wage and Hour Division are confident that this Act, as it serves the interests of the nation, will go far toward ridding the South of long hours and low wages, and will permit our own people in the South to enjoy for themselves more of the South's great resources, to prosper, and to grow in strength. Strength, we all fervently know, is the order of the day on all fronts of our national life.

General Philip B. Fleming, a regular Army man detailed to the Wage and Hour Division as Administrator, recently quoted John G. Winant, our Ambassador to Great Britain:

"Unpreparedness was not only military," Mr. Winant said. "There was also a lack of foresight and of readiness in the social field. War

came to the democracies when they still had thousands of unemployed. It found them holding out little promise to the young or to the old, with poor living conditions, with tired faith. The Fascist promise of work and hope fell on fertile ground under these conditions; it contributed to division within the house of democracy. We could not expect—and we cannot now expect—that a citizen with no share in the benefits of democracy will give his faith and his life for the preservation of the empty promises of democracy. . . . To win the war or to build our defense, we must first justify our beliefs by strengthening the fundamental economic, social, and civil rights of all free citizens."

"That," the General concluded, "is fundamentally what the Fair Labor Standards Act is all about. In the Wage and Hour Division we are not compiling statistics, or making inspections, or compelling wage restitutions or holding hearings as though these things were ends in themselves. We are trying to make democracy work, to give it meaning in the lives of people, to make it worthy of the faith and loyalty of the common man."

Mr. Cooper answered scattered questions as to the scope of the Wage and Hour Law.

With the announcement from the Chair that a pilgrimage to Beauvoir would take place immediately after the meeting, the afternoon session was adjourned.

MORNING SESSION, JUNE 27, 1941

President W. E. Morse called the assembly to order. Mr. Morse relinquished the chair to the Chairman of the Junior Bar Section, Mr. George M. Ethridge, Jr., that he might present the report of that Section.

REPORT OF THE JUNIOR BAR SECTION

In view of the fact that there are some very important parts of the program which come after this, we want to expedite matters as quickly as possible.

It is a plesaure for me to report the work of the Junior Bar Section, as it was a pleasure for me to serve as chairman of the Junior Bar Section during the year.

This report, of course, completes another year of activity on the part of our Section. In the beginning of our report we want to express our deep appreciation to the Bar for the privilege of carrying on the Junior Bar Section as part of the State Bar, so that those from the age of 21 to 36 can function and take an active part in the work of the Bar.

This happens to be the fifth birthday of our Junior Bar Section, it having been organized in 1936 at the instance of some younger members of the Bar who are present with us here now, and they are proud to see

the progress that the Junior Bar Section is making through its various committees and various activities.

The value of the work that is done by the Junior Bar Section and the credit for the work that is being done by the Junior Bar Section goes likewise to the entire Bar. The value of the work is seen in the accomplishment—in the proposed laws that are enacted into statutes by the legislature.

We had a splendid program starting Wednesday. We were regretful of the cause that made it necessary for us to postpone the early afternoon session, but we did not hesitate, and we felt that it was the proper thing for us to do in view of Senator Harrison's death.

Afterwards we went forward with our program in due form, and heard the Hon. Sam Johnson, President of the Alabama State Bar, who spoke to us on the duties of a lawyer and who presented in detailed and outline the part that a lawyer can play in the present situation existing in our country and in foreign lands. We appreciate his presence here, and I believe he has thoroughly enjoyed his stay, mingling and mixing with his old classmates and friends.

We went into our regular business session and completed the reports leading toward the evening session which constituted the climax of our meeting, when we had the honor and pleasure of listening to a remarkable address delivered us by the assistant director of the F. B. I., Mr. Hugh Clegg, who is a Mississippian, and who brought to us a message which will long linger in our hearts and minds. We are encouraged to cooperate with those who are endeavoring to strengthen our preparation for the defense of our land.

Some of the older members, older than 36—none of you are old members, but older than 36—were present with us and enjoyed the benefits of our program, and we appreciated your presence. We always want the older members of the Bar outside the Junior Bar to come to our meetings if they possibly can and join with us, because we feel that it is an honor to have the older members of the Bar come and express some appreciation for the program and activities that we are endeavoring to carry on.

I feel that we should not hesitate to mention to you that the Junior Bar Section has been in a slight degree handicapped through this year's work because we were honored by the National Congress in having the Selective Service Act include the very ages as our Junior Bar Section, 21 to 36, and we, of the Junior Bar Section, are glad, of course, to give up our various members who are eligible for the selective service. We are glad that they can go and serve their country, and we pay due respect to them as they go forward in their training as soldiers.

In the beginning of the year—I would say our work started about August—at the Executive Committee meeting in 1940, we decided to outline a program for the year's work. As you know, the effectiveness of the Junior Bar Section is accomplished through committees, eight or ten of

these committees being sponsored and led by very active chairmen. At this meeting we decided on the program for the year, as I stated, and began to proceed toward the appointment of committees. As we canvassed our membership for chairmen of the various committees, the Selective Service Act began to function and began to take a few away. We just re-arranged them as best we could, and it has worked out so that we present to you this morning a report which we believe is in line with the other work that has been done by the Junior Bar Section in the past.

In April, to give you the full proceedings we followed, in order to check on the work of the Junior Bar Section, we had our second executive meeting, received all of the committee reports up to that time, and received the final reports before this meeting on Wednesday morning, June 25th.

In the order of their presentation at our Junior Bar Section, I am going to take up the matters and briefly explain to you what was presented by these committees in their report to our Section.

Mr. Ethridge described the reports of the Committee on Admissions to the Bar [found in the Proceedings of the Junior Bar Section, *infra* p. 740]. His motions that the two acts recommended by this committee [found, *infra* pp. 740, 741] be adopted, were passed.

Mr. Ethridge then described the reports of the Committee on Co-operation with Young Lawyers [found, *infra* p. 749], and the Public Relations Committee [found, *infra* p. 750].

He then presented the report of the Legislative Drafting Committee, and a motion was passed adopting the act recommended by that committee [found, *infra* p. 743]. He presented the report of the Committee on Pleading, Practice and Procedure [found, *infra* p. 747], and his motion for the adoption of the second recommendation of this committee was passed. There was a motion by Mr. Thompson McClellan to table the motion for the adoption of the third recommendation of the committee which limited the period for the administration of an estate of less than $3,000.00 to a period of 90 days instead of six months [found, *infra* p. 748] and there was a substitute motion by Mr. John Satterfield extending the limitation to all estates. Brief remarks in favor of the recommendation were made by Mr. Satterfield and Mr. Robert Sommerville and against the recommendation by Mr. F. C. Hathorn. Mr. Satterfield's substitute motion was lost. The motion to table passed by a standing vote, and the recommendation therefore failed.

Mr. Ethridge then presented Mr. John W. Wade, Chairman of the Code Committee, who described the recommendations embodied in the report of that committee [found, *infra* p. 761]. On separate motion for each recommendation the recommendations were all adopted.

Mr. Ethridge presented the resolution adopted by the Junior Bar requesting the Supreme Court to continue to meet *en banc* [found, *infra*

p. 751], and on his motion the resolution was adopted. He then presented Mr. J. Morgan Stevens, Jr., who offered the resolution adopted by the Junior Bar Section urging the adoption of a new code [found, *infra* p. 751] and explained the reasons for urging this recommendation. On Mr. Steven's motion, the resolution was adopted.

Mr. Ethridge concluded the report of the Junior Bar Section with the following remarks:

MR. ETHRIDGE: There is no further committee business except this remark that I would like to make, and that is that every proposal the Bar makes through our Junior Bar Section or through the committees of the State Bar, if it is a proposal for legislative enactment or some amendment of statute, must be passed upon by the legislature. So when you go home it is well that you familiarize yourselves with these proposals and get in touch and talk to your legislator, especially those legislators from the counties that do not have lawyers there. I am sure proper explanation by somebody in their home county will expedite the handling of the bar program in the legislature.

The Junior Bar, as said in the beginning, appreciates the opportunity of serving its Bar, and it has been a genuine pleasure for me to serve as chairman with the other officers and Executive Committee.

It gives me pleasure at this time, before concluding, to present to you the new officers of our Junior Bar Section for next year. Mr. John Morgan Stevens, Jr., was elected chairman. I am going to ask you to come up here so they can see you.

Mr. David Cottrell, Jr., was elected vice-chairman.

Then we have an Executive Committee which functions with the chairman and vice-chairman. They are selected, three from each supreme court district. They are as follows: Northern District—P. D. Holcomb, John W. Wade, and G. P. Cossar; Central District—George Woodliff, William Neville, and William A. Huff; Southern District—Bob Newton, Junior O'Mara, and Alfred Moore.

I did not have an opportunity to express my appreciation for their selection, and to turn the work over to the new chairmen, who will take up the new year's work for the Junior Bar Section. We hope to have a better report and a more outstanding report from the Junior Bar Section next year than this year and in the past. The reason we have been able to do the work that we have is because of the help and the encouragement and the cooperation we have received from the older lawyers and we appreciate it and thank you.

President Morse asked for any unfinished business. Mr. Robert Sommerville's motion that the incoming officers and commissioners of the State Bar be authorized to set the place for the next annual meeting was ruled out of order as not being unfinished business.

Mr. J. H. Caldwell moved that the question of retirement of judges be referred to the Study Committee for a report at the next meeting. The motion passed.

Mr. Hugh N. Clayton presented the following motion:

MR. CLAYTON: Last year the Study Committee of the State Bar, headed by Mr. Welch, made certain recommendations in written form, which were mailed to all members of the Bar. That report was not considered by the State Bar last year, and the impression prevailed that it was placed as one of the first orders of business before the meeting on this occasion. Apparently, that has not been done. I do not say that I am in favor or opposed to the particular report; it contains matters of highly controversial nature, but, nevertheless, it represents a determined and thoughtful effort on the part of the committee. One of the complaints against the State Bar is that we fail to do anything. I think lawyers are courteous and fundamentally gentlemen. I think we owe this committee the courtesy of considering the report, and, therefore, I move, Mr. President, that the incoming administration, the new president and the Board of Bar Commissioners, be instructed to advise in the Law Journal of what particular day at the next annual meeting the report of the Study Committee will be considered, at which time we will consider the report of this committee.

The motion carried.

Judge J. Morgan Stevens moved that the outgoing Bar Commissioners be authorized to nominate the president of the Mississippi State Bar subject to the ratification or rejection of the convention. Mr. John Satterfield's motion to table Judge Steven's motion was passed.

The President then presented the next speaker, Chancellor A. B. Butts of the University of Mississippi. Chancellor Butts' address follows.

THE LAWYER OF TOMORROW

A. B. BUTTS

I am happy to be on this program today. As you know, the University of Mississippi trains nearly half the lawyers of Mississippi; therefore, the University itself is practically a part of the Mississippi Bar.

My subject is "The Lawyer of Tomorrow." I am going to speak briefly on three topics: first, on the early American Bar; second, on the law schools; and third, on rules of admission to the bar.

Now, as to early lawyers: all of us know a great deal about that subject. So much has been written about it that I think I shall just call attention to the lack of training of a few early American lawyers, and then read an article I have in which perhaps you will be interested. We talk a great deal about Patrick Henry. He studied law one month before his

admission to the bar. He would not be much of a Mississippi lawyer today. John Marshall's formal study of law lasted six weeks; Alexander Hamilton's, ten months. John Dudley, a very prominent New York judge from 1785 to 1787, was a farmer and a trader. In court he frequently expressed his determination never to read any "quirks of the law out of Coke or Blackstone." Chief Justice Stoughton of Massachusetts had absolutely no legal training. A farmer was Chief Justice of Rhode Island from 1819 to 1826.

I might add one other. Most of you lawyers recall that General Sherman was admitted to the Illinois Bar at the close of the Civil War, and it was said of him that he "must be learned in the law since he graduated from the United States Military Academy at West Point." That is a nice one!

With few exceptions in the early days, I read in our Law School Library a few days ago, the profession was recruited from pettifoggers, swindlers, tricksters, and deported English barristers. Though that was a long time ago, the information should still be of interest to us.

Attorney-General Randolph wrote in 1688 lamenting "the want . . . of two or three honest attorneys (if any such thing in nature)." Life was simple then, and the practice of law was simple. Perhaps it was pardonable for almost anybody to be accepted as a lawyer.

Glenn Frank, once editor of the *Century Magazine,* later president of the University of Wisconsin, and, at the time of his tragic death in an automobile accident two years ago, a candidate for the United States Senate, once published an article called "When Lawyers Were Hated." This article is worth quoting:

> "The other day I stood before several hundred distinguished lawyers who represented the bar of a great state, and my mind went back to the days when lawyers were looked upon as unholy and undesirable members of a community.
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> "Richard de Bury, High Chancellor of England under Edward III, once said, 'Lawyers indulge more in protracting litigation than in peace, and quote the law, not according to the intention of the legislator, but violently twist his words to the purpose of their own machinations.'
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> "In Shakespeare's Henry VII, Dick the Butcher suggests to Jack Cade that the first thing they must do, when Cade becomes king, is to kill all the lawyers. 'Nay,' says Cade, 'and that I mean to do.'
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> "Napoleon, at St. Helena, called lawsuits a leprosy, and indicted lawyers as a class that lived upon the quarrels of others and stirred up trouble as a merchant drums up trade, but he said that he had never been courageous enough to follow out his idea of starving lawyers by legislation to the effect that they should not receive fees save when they won their cases.

"Sir Thomas Moore left lawyers out of his Utopia. Every man was to plead his own case. By such a system, Moore suggested, men would 'both cut off many delays and find out the truth more certainly.'

"One verse in Macaulay's war song for the English radicals in 1820 ran as follows:

'Down with your Baileys and your Bests,
Your Giffords and your Gurneys.
We'll clear the island of the pests,
Which mortals name attorneys.'

"And down to the latter part of the seventeenth century, the lawyer had hard sledding in America.

"In 1633, Massachusetts denied to lawyers membership in the Great and General Court of the province. And the Massachusetts Body of Liberties, adopted in 1641, permitted every litigant to plead his own case, and provided that, if he were unable to plead his own case, he must give to the counsel he called in 'noe fee or reward for his paines.'

"In the early years of Maryland, a local historian thanked God that there were no lawyers in that colony and no business for such trouble-making members of a community.

"In 1645, Virginia forbid lawyers to take fees.

"When the Earl of Shaftesbury, then known as the 'first practical politician' of England, and John Locke, then known as the 'first philosopher' of England, formulated the fundamental constitution of the Carolinas, they prohibited lawyers from practicing for fees of any sort.

"The rise and fall and fall and rise of the prestige of the various professions is a fascinating study."[1]

Dean Landis, I did not mean to bring in Massachusetts again, but Glenn Frank reminds us that that is what the people of Massachusetts said about lawyers in the past.

How many of you have read "Woe Unto You, Lawyers!" by Fred Rodell, professor in a great law school in this country? A part of his preface reads:

"No lawyer will like this book. It isn't written for lawyers. It is written for the average man and its purpose is to try to plant in his head, at the least, a seed of skepticism about the whole legal profession, its works and its ways.

"In case anyone should be interested, I got my own skepticism early. Before I ever studied law I used to argue occasionally

[1] Reproduced with permission of McClure Newspaper Syndicate.

with lawyers—a foolish thing to do at any time. When, as frequently happened, they couldn't explain their legal points so that they made any sense to me I brashly began to suspect that maybe they didn't make any sense at all. But I couldn't know. One of the reasons I went to law school was to try to find out.

"At law school I was lucky. Ten of the men under whom I took courses were sufficiently skeptical and common-sensible about the branches of law they were teaching so that, unwittingly of course, they served together to fortify my hunch about the phoniness of the whole legal process. . . .

"By the time I got through law school, I had decided that I never wanted to practice law. I never have. I am not a member of any bar. . . .

"When I was mulling over the notion of writing this book, I outlined my ideas about the book, and about the law, to a lawyer who is not only able but also extraordinarily frank and perceptive about his profession. 'Sure,' he said, 'but why give the show away?' That clinched it." [2]

That should be very good advertisement for his book, if you have not read it!

I want to talk now about law schools. I start with the flat statement that, even today, our lawyers are not well enough educated. The practice of law should be in the hands of our best-educated men. When I come to say a few words in conclusion about admission to the bar, there will be room for controversy, but we as lawyers—generally speaking—do not expect agreement on many things.

The first law school in this country, we are told, was established in 1782 at Litchfield, Connecticut, by a Princeton graduate, Judge Tapping Reeve.[3] Up to that time Americans who wanted to study law had the choice of studying in law offices or, of course, going to London and studying in the Inner or Middle Temples.

Lawyers always exercise their right of unrestrained criticism of law schools. I have now had experience for six years at the University in that regard. Refer again to Rodell's "Woe Unto You, Lawyers!" He is very critical about lawyers. He says very little in his book that isn't uncomplimentary. I have heard lawyers say of our law school: "You have a good law school, but all that your young graduates can do after spending three

[2] RODELL, WOE UNTO YOU, LAWYERS! (1939).

[3] As a matter of interest—from the Harvard Law School Register: "The Law School was established in 1817, and is the oldest of the law schools now existing in the United States"; from the Yale Law School Bulletin: "In the first decade of the nineteenth century Seth P. Staples, B.A. 1797, opened a school for law students in New Haven, and in 1824 this school became affiliated with Yale College, the list of students being published in the catalogue for that year. The Yale School of Law has been conducted without interruption since that time. Degrees in law were first conferred in 1843."

years there is to reach for a form book." Lawyers frequently say that to us. Of course the accusation isn't true. Young lawyers, properly trained, are as able to serve efficiently as are young members of other professions.

We have a medical school at the University, and I am going to compare the two for a few minutes. The medical school has been a part of the University for thirty-eight years. Not once in my six years at the University have I heard a single criticism from doctors of the Medical School of the University of Mississippi. Whether they believe it or not, they say to us: "That is one of the finest medical schools anywhere." They point with pride to the fact that graduates of our Medical School stand nearly always in the upper half of the class when they transfer to four-year medical schools for the last two years of their training. That is what the doctors say about young doctors. As a group, doctors in this country are better educated than lawyers. If you go back to 1912, you will find that our state legislature passed an act amending the Code of 1906 with reference to the examination for license to practice medicine. It struck a great blow for medical education and the medical profession. The 1912 act provided "that no applicant shall be granted a license unless said applicant shall hold a diploma from a reputable medical college that requires four years' course of at least thirty-two weeks for each session."

All of you know that if one has money enough to pay the fees and charges, and if one has a minimum of two years' work in a standard college, with grades which average C, one can come to the University of Mississippi, not only from this state, but from any of the other 47 states, and enter upon the study of law. What is the situation in medicine? I am not recommending that we do the same in law. I am just showing you the difference. What is the situation? Medicine is the only profession in this country for which young men and young women may not train if they have the money and have proper preliminary education. In fact, with a pocketful of money, a B. A. degree "with honors" even, and a burning desire to study medicine, it still may be impossible for one to study medicine, let alone pass examinations given by the Mississippi State Board of Health for the practice of medicine. I think that is reprehensible, but it is a fact. I think that is going too far, but the fact is that the American Medical Association and the Association of American Medical Colleges make it impossible, with our present facilities, for us to take more than 30 students each September to study medicine. For next September we had 58 Mississippi boys and girls to apply to enter the Medical School. We can take not over thirty. The exact figures, as of this day, are: 58 Mississippi citizens applied, 6 withdrew their applications, leaving 52 applicants; 30 of the 52 have been admitted, leaving 22 who cannot be admitted; 7 of the 22 left out are not eligible on grades or a part of the required three years' pre-medical work, which leaves 15 who are eligible but who cannot study medicine at the University. This in face of a serious shortage of doctors in small towns and rural areas. In recent years we have had annually as many as 400 inquiries from interested students from other states. We do not take a one from other states. "Oh," they say, "that is to raise standards." It has no doubt done that, because, when you select them, you

can pick those with the best records, as we invariably do at the University Medical School. This practice does raise standards, but I do not believe that the physicians and surgeons of this country are wholly ignorant of the operation of the law of supply and demand, while raising standards of the medical profession. They should raise standards but refrain from practices which bar qualified students from entering upon the study of medicine.

The University of Mississippi School of Law is eighty-seven years old, having been established only six years after the opening of the University in 1848. Two or three years ago the faculty of our School of Law asked the other university law schools in this region if they would join with us in requiring three years' work in college as a prerequisite to the study of law. Two or three of the schools said they would; those who would not—and their reasoning was not bad—said that if they should do that, the result would be to drive more and more of the prospective students from standard law schools into schools with lower standards, resulting in a lowering of the standards of the practice of law.

Perhaps the raising of the standards for the practice of medicine, it is said, has "stimulated the flow of men into the ranks of the irregulars." We are told that "chiropractic, osteopathy, naturopathy, and . . . many other kinds of pathy have flourished mightily as a consequence." [4]

As we raise the standards in law schools there will be non-standard law schools "grabbing the overflow" as long as they are permitted to do so.

So much for law schools.

You cannot practice medicine now, ladies and gentlemen, in this country unless you have had a minimum of two years college study—at the University of Mississippi it is three; three years to enter upon the study of medicine, two to enter upon the study of law. Even there we recognize the difference in favor of better education or more education for doctors than for lawyers. You cannot practice medicine in this country, I say, unless you have attended a standard college for a minimum of two years before entering medical school, and attended a standard medical school for at least four years and finally graduated from such a medical school.

They say, "Life is too precious to trust in the hands of novices." We, too, as lawyers have lives in our hands. We have responsibility for the protection of the property and rights of the people of this country. I personally believe that standards for the practice of law should at all times be as high as standards for the practice of medicine. We the lawyers—let others like it or not—practically operate the government of the United States.

Let us look at a few figures on this last point. I think most of you are familiar with these figures, but they will bear repetition, I hope. It is an old story, often repeated. Of the 56 persons who signed the Declaration of Independence, two-thirds were lawyers. Of the 55 framers of the Constitution, 31 were lawyers. With full responsibility for the judicial

[4] Angell, *The University and the School of Law* (1928) 6 Am. L. School Rev. 290.

branch of government, the lawyers always play leading roles in the executive and legislative departments. Of the 31 men who have served as President of the United States, 22 have been lawyers. I had to look that up. I had that down as 22 of the 31 presidents, and I knew Mr. Roosevelt to be the 32nd President, but that comes about in this way: Cleveland served four years, was out four years, then back in; so 22 of the 31 men who have served as President of the United States were lawyers. A majority of the members of every Congress have been lawyers. Of the present Congress, 62 of the 96 Senators are lawyers; 251 of the 435 members of the House of Representatives are lawyers. From Mississippi, every member of the delegation in Congress, both houses, is a lawyer. Seldom has it been when any person other than a lawyer has been elected to Congress from Mississippi.

I wanted the figures on our state governors, but I did not know where to find the facts. So I sent 48 postal cards to the governors of the 48 states to ascertain in each case whether the present governor is a lawyer, and whether his immediate predecessor was a lawyer. Here are the figures I received. I got the figures back from all states but two, and I wired for those two, and they wired me the answers. Of the present 48 governors, 29 are lawyers, while 23 of the 48 immediate predecessors were lawyers. In state constitutional conventions and state legislatures, lawyers, as a rule, if not in numerical majority, nevertheless become the dominant force.

In county and municipal governments the services of lawyers are indispensable.

So I say that the doubters about the legal profession should be reminded that government is law and law is government. In a very large measure, as is our law so will be our government.

You remember a striking statement about that sort of thing. It appeared in a law journal in recent years. Here it is. The Chief Justice of the Supreme Court of Indiana said:

> "When Peter the Great visited London in 1697, he was surprised at the number of lawyers about Westminster Hall and remarked that there were but two lawyers in all his dominions and that he had already made up his mind to have one of them hanged when he got home. This explains one thing that is the matter with Russia today. There can be no such thing as a great legal profession in a country that is ruled by a despot or a dictator, and, conversely, there can be no such thing as a dictator in a country where justice is honestly and efficiently administered and where every man for injury done to him in his person, property, or reputation has his remedy by due process of law."

I believe all of us would subscribe to that statement.

Our ability to govern ourselves is constantly challenged. You will recall what Alexander Hamilton said in number one of *The Federalist*, that great collection of articles written by Hamilton, Madison, and Jay,

once referred to by Mr. Justice Frankfurter as "a lawyer's brief by framers of the Constitution in support of their handiwork." I quote from Hamilton:

> "It has been frequently remarked, that, it seems to have been reserved to the people of this country, to decide by their conduct and example, the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force."

That again indicates our responsibility as lawyers and public officials.

We lawyers are great individualists, but we are too much so. Look at these figures—if I can get them without too much delay. There are 165,000 physicians in the United States, and 109,000 of them are members of the American Medical Association. There are 78,000 dentists, and 45,000 belong to their national organization. There are 160,000 practicing lawyers in the United States. Barely 30,000 are members of the American Bar Association, less than 20 per cent.

So we lawyers go our individual ways, and some say it is the right of every young man who is competent to become a member of the bar, to practice law. It is not a right, members of the bench and bar. It has never been a right. It should be a privilege—a privilege granted only to those persons who are trained and who by education and character should be, for the best interest of their country, lawyers. The "right" to practice medicine—did you ever hear that? The public has, or ought to have, the right to service only by competent lawyers.

Finally, just a few comments on admission to the bar, and here I will say I am quite fortunate in having the Dean of the Harvard Law School follow me immediately on this program, or perhaps some of you would give me no rest for the statements I am going to make. (That would not bother me either.)

I believe we should follow definitely the standards set by the American Bar Association—I do not mean at once but just as soon as we can. Speaking aside on the matter, all of you know that we are admitting too many persons to the practice of law. If you want your boy to be a lawyer you ought to send him to a good law school. Why should you select a poor place to develop a young American boy to practice law and inevitably to have him mess up people's business?

I had a lawyer say to me that if, after over thirty years' practice, he could have before him a list of all the cases he had handled and all the clients he had had, he is certain that this would show that at least 70 per cent of his work and that percentage of his fees had come from correcting errors made by other lawyers. We hope that is not true of our surgeons, though it is doubtless true of some of them. I have attended medical conventions, and recently I had a conversation with a surgeon who had recently removed a patient's eye. He said, "Her eye could have been cured

without much trouble if the general practitioner had known his business." He called no doctor's name, but even that much admission is rare. The medical men usually keep criticism to themselves. Which reminds me to remark that an older lawyer is likely to say about young lawyers that they do not know the difference between a writ of habeas corpus and a wheelbarrow, unless they are very familiar with the wheelbarrow. You never hear a physician say such harsh things about their young professional brethren. Incidentally, we know that the public is harsh in its criticism of lawyers—much more so than of any other profession. For malpractice, overcharging, and other derelictions by a member of the medical profession, the whole profession is not condemned. Engineers and architects are not generally held up to ridicule because of the incompetency of individual members. Lawyers are. Individual members of the profession, as in medicine and engineering and scores of other professions and vocations, richly deserve censure; but the great majority of lawyers, as in the other professions, are worthy members of the profession.

To the doctors I sometime say: "How is young Dr. So-and-So?" They say, "Fine, he is going to make a fine doctor." That is one reason why a young physician will not work for less than $200 to $300 a month, while of a young lawyer, as we have them, it is not unlikely true when it is said of him that he made one $25 fee last year and several small fees!

We are not protecting the legal profession. Worse than that, we are not protecting the public. Those who cry out for the "right" to practice law should realize that the public interests must be served. If we are a learned profession—and we are, or we ought to be—then our standards must be raised; they must be greatly raised. I believe we should immediately begin requiring two years' study in a standard law school, or more than two years in law schools not standard, before we permit anyone to take the Mississippi Bar examinations. Some of you know the figures, but I call your attention to the fact that Mississippi is one of the three states (Arkansas and Georgia being the other two) in the Union which permit persons to take the bar examinations without having had any definite period of legal study. "The applicant for admission to the bar, in order to be eligible for the examination for admission shall be a citizen of the United States and a resident of this state, above the age of twenty-one years, of good moral character; and shall have had, at least, a high school education or its equivalent."[5] That is a downright shame! Not infrequently we read in the papers, following one of the biennial examinations given by the State Board of Bar Examiners, the name of some person who has successfully passed the examinations and been admitted to the bar, only to realize that that same person remained in the University Law School perhaps one semester of the six semesters or three years required for the Bachelor of Laws degree. It really hurts my heart, for the profession and for the public interest, when that person—and this happens at times—is one who, within less than a year, has actually been dropped from the Law School for academic failure. Such a man has no business being admitted to the bar. He is not a lawyer.

[5] Miss. Code Ann. (1930) § 3683.

Let us look at some of the facts about admission to the bar so that we may again see what the other states are doing about the matter of legal training and admission to the bar. A summary of general and legal educational requirements of states for admission to the bar as of March 1, 1941, is as follows: 45 states require three years of full legal study or the equivalent of a longer period of part-time study; 6 states require the equivalent of at least two years of legal study; 3 states require no definite period of legal study; 15 states do not recognize legal study in law offices; 3 states require a preliminary college degree or its equivalent before law study; 44 states require at least two years of preliminary college education or its equivalent; 8 states require a preliminary high school education or its equivalent; 2 states require no preliminary general education; 30 states require registration of office students prior to commencement of legal study. The territories are included in these figures.

If we really want to raise the standards of the bar we should lose no further time in adopting as nearly as possible the standard rules for admission to the bar as adopted by the American Bar Association as far back as September 1, 1921. I know that you are reasonably familiar with them, but I wish here to submit them for your attention. The rules require that every candidate for admission to the bar shall give evidence of graduation from a law school complying with the following stated standards: (1) at least two years of study in college are required for admission to the law school; (2) three years are required for graduation where substantially all of the working time of the students is devoted to their studies, and a longer course, equivalent in number of working hours, if they devote only a part of their working time to their studies; (3) an adequate library must be available for the students; (4) a sufficient number of teachers giving their entire time to the school to insure actual personal acquaintance and influence with the whole student body; and (5) the school shall not be operated as a commercial enterprise, and compensation of officers and teachers must not depend on the number of students or on the fees collected.

The medical profession in Mississippi saw to it that graduation from a standard medical school should be a prerequisite to admission to the practice of medicine. In Mississippi that was done by legislation in 1912. I wish we lawyers could do this by legislation in 1942—making us only thirty years behind the doctors in raising professional standards! I wish we could do this and at the same time avoid doing what the doctors have done in respect to reducing the opportunities to study for admission to the profession. I might say here that the American Bar Association recommended "the establishment in each state, where none now exist, of opportunities for a collegiate training, free or at moderate cost, so that all deserving young men and women seeking admission to the bar, may obtain an adequate preliminary education." This policy is far more liberal and perhaps more magnanimous than is the attitude of the American Medical Association toward those who would study medicine, as indicated, for example, by the fact that within the past five years they have tried to make impossible the existence of all two-year medical schools, which would have meant

that even fewer young men and women than at the present time could prepare themselves for the practice of medicine. Here I should say that in this country there are nine two-year medical schools from which schools the graduates go for the third and fourth years study of medicine to the full-course or four-year medical schools.

In conclusion, let me say that I think of all the professions, the legal profession is the finest and the best. To be a member of the bar ought to be a great honor and a high distinction. It should be our business to make it just that. The legal profession is the strongest pillar of democracy now available. The administration of justice is our task as well as our privilege. Lawyers and judges and courts must preserve American liberty. If the time should ever come when they are no longer regarded as being protectors of the American government, those of us who have military obligations will find ourselves not in our offices but on the field of battle.

The President then presented Judge T. C. Kimbrough, Dean of the University of Mississippi School of Law, who introduced the guest speaker of the convention, Dean James M. Landis of the Harvard Law School. Dean Landis' address follows.

THE CHALLENGE TO TRADITIONAL LAW IN THE RISE OF ADMINISTRATIVE LAW

James M. Landis

It is difficult these days to turn our minds to the common, normal processes of living. Things that yesterday appeared of such moment seem somehow to pale into insignificance against the lurid background of tragedy abroad. Issues that only yesterday were fighting issues, that divided us in our friendly, domestic, democratic struggle to achieve better ways of living, seem somehow to have lost their challenge as we begin to understand that as between Americans there can be no differences large enough truly to divide us.

These changing aspects of the times have more than their usual force in the field of law. In many ways today we are at war, and every lawyer knows the maxim—*inter arma leges silent.* That maxim, however, correct though it is for the battle-line, fails adequately to picture what happens to law in the world behind the battle-line amid the new and terrific pressures that are generated by war or a state of unlimited emergency. The effect of the War between the States upon the development of law, entirely apart from the issue of slavery, was enormous. As war, especially in the North, bred the need for industrial organization on a larger scale, law had to keep apace. In the years that followed, the law of corporations received new impetus and, under the aegis of the Fourteenth Amendment, the American doctrine of judicial supremacy grew to its full flower. The first World War had similarly penetrating effects. Again, there existed an intense demand for tight, large-scale industrial organization, for greater control by government of the direction and productivity of our economic

life, and law once more adapted itself to this end. As one goes back to what a Justice of the Supreme Court of the United States recently called the Babylonian era of the twenties, one sees that some of its difficulties sprang from the failure of law to insist that this new economic power was still to be subordinated to those ancient ideals of justice that cluster about the concept of trusteeship.

These things make plain both the responsibility and the challenge that devolves upon the lawyer under modern conditions. Not only will enormous changes take place in our economic life, but the relationships of state to nation and of the individual to both state and nation will undergo profound alteration. Amid these pressures of this year and, perhaps, those of several years to come, law through lawyers will have to work out new adjustments, new means of realizing the ancient objectives, new assurances that the conflicting claims of man against man will be determined not by force but by the light of a bolder and truer reliance on reason.

The difficulties of our present situation unfortunately have been accentuated by the depression of the thirties. To carry out the main outlines of the remedial program there envisaged, great masses of law had to be created overnight. Understanding both of the ultimate ends of that program and of the necessity for some such action was slow in coming. And before the appropriate adjustments could be thoroughly absorbed into the system, the Second World War is upon us with all its demands and its challenges.

To one engaged in teaching law, these matters have peculiar significance, for the whole problem of legal education has radically changed in ten years. New subjects have to be fitted into the legal curriculum which were wholly missing only a decade ago. Labor law, taxation, accounting and corporate finance, governmental regulation of various aspects of business, were esoteric fields of study some ten years ago. Today they are as much the grist of study as torts or property or contract. Even the country practitioner finds himself frequently faced with problems of taxation, of fair labor standards, or of unemployment compensation—matters of which some years ago he might justifiably be ignorant. And in the traditional fields law teaching has been forced to take account of new factors that alter both its content and its emphasis. No teaching of corporations today, for example, can be adequate which neglects the effect of the federal government's intervention in these matters through such legislation as the Securities Act or the Public Utility Holding Company Act. No teaching of procedure or of evidence can ignore the effect of recent reforms in those fields affected by the federal rules and the rise of administrative justice.

Everywhere that one touches law, these tendencies are evident. But, perhaps, the sharpest and thorniest of the new challenges is to be found in the rise of administrative law. There, more than anywhere else, traditional methods of dispensing justice are being put in issue; persons unsteeped in legal tradition and legal methods are being deputed with the task of adjudicating claims more far-reaching in their significance than those ordinarily

determined by courts of first instance; informality and impatience with immemorial restraints thrusts at the old methods of doing business and, in turn, arouses doubt as to the inherent value and rightness of the new.

Robert Browning, in phrasing Fra Lippo Lippi's justification for breaking away from the traditions of the earlier artists of painting men and women in the formalized fashions of the older schools and painting them realistically as he saw them chatting together on the street or laughing at play, makes the artist say that the common ordinary things of life, as a whole, pass mankind by until someone puts them before us so that we must look at them. No better illustration of the same phenomenon can be found than in the present day concern of the bar with administrative law.

It is almost impossible to pick any definite point of time which marks the beginning of the rise of the administrative process. Certainly with us it goes back at least seventy-five years; with the English at least a hundred. Yet for years even scholars seemed ignorant of its existence. In England as late as 1912 such a great scholar as Sir Albert Venn Dicey published a new edition of his great book on the Constitution applauding as one of the hall-marks of English law the absence of any scheme of administrative justice. But before the ink was dry Dicey in an article in the Law Quarterly Review commenting on the famous Arlidge decision of the House of Lords discovered that such a system already had a firm hold on British justice.

The work of Dicey, however, like the work of such American scholars as Goodnow in Columbia, Frankfurter in Harvard and Freund in Chicago passed substantially unnoticed by the public as well as the bar. It was only in the late twenties in England when the Lord Chief Justice of England, Lord Hewart, published his notorious condemnation of what he called the new despotism, and in the early thirties in this country when a bewildered nation turned to the administrative process in a wholesale way in an effort to lift itself out of the depression, that the bar as a whole became conscious of this new and important and seemingly competing system of administering justice. Like the staid priests who stared at Fra Lippo Lippi's murals and went away in shocked and angry surprise, the reaction of the English and the American bar was one of annoyance and irritation. In England that attitude quickly subsided after the report of the Lord Chancellor's Committee that surveyed the field and returned with a verdict that Lord Hewart's charges of personalized and lawless administration were not proven.

In this country orator after orator addressed bar associations on the rise of bureaucracy, of despotism, and the creation of this irresponsible and headless fourth branch of the government. The American Bar Association's Committee on Administrative Law became the spearhead of this attack and from 1935 to 1940 issued a series of reports and proposed a number of bills culminating in the Walter-Logan bill that passed both Houses of Congress only to be vetoed by the President last November. At the same time the Attorney General appointed a committee to consider the

question which last January issued a report and proposed legislation—which is now in hearing before the Senate.

This brief outline of events discloses something of the profession's justifiable concern with the problem. And yet the tragedy in this country lies in the fact that the profession as yet does not seem to me to know just exactly what it is really concerned about. A good illustration of this fumbling, this lack of true analysis, is the history of the Walter-Logan bill. Drawn by the highly touted Commitee on Administrative Law of the American Bar Association and presented for ratification to the various state and city bar associations, who in the main endorsed the bill, approved by national and state chambers of commerce and other gatherings of business men, the bill today is deserted even by its sponsors—as eloquent testimony as can be given to its intrinsic failure to deal with what everyone admits is a problem. Not a member of the Attorney General's Committee —majority or minority—supported even its main features, and today the Association in the hearings before the Senate Subcommittee on the Judiciary has refused to underwrite the features of administrative reform that only a few months ago it had sponsored.

This sense of confusion over the issues arising from the growth of administrative law seems to me to stem from several sources. Chief among them is the failure of the bar to distinguish between the substantive content of the law enforced through administrative agencies and the mechanics of that administration. Opposition, for example, to the policy of the Securities Act or the National Labor Relations Act tends to promote a flank attack upon those policies through criticism of administration. If it is politically impossible to assail the principle of collective bargaining, the way to defeat its realization is first to create the impression of unjust and irresponsible administration and then by legislation destroy or hamstring the administrative agency charged with responsibility for translating legislative policy into action. Illustrative of this was the debate last summer in the House of Representatives on the Walter-Logan bill. The older administrative agencies, like the Interstate Commerce Commission, had been excepted from its provisions. This long list of exceptions was hard to explain upon any rational theory, for their administrative procedures were also subject to justifiable criticism and reform. The true explanation, however, was given on the floor of the Congress by one of the leading pilots of the bill, who, to paraphrase his words, said to his colleagues: "Why delude ourselves about the true purposes of this legislation for we all know that it is an effort to cut down upon the powers of the New Deal administrative agencies." Such an attitude is, of course, inimical to the true problem of reform, and it is only by dissociating ourselves from substantive policy, whether we like it or not, that we can approach the issues raised by the entire question of administrative justice.

A second source that makes for confusion is the general conservatism of the bar in matters of practice and procedure. It is only natural that men who after long study have mastered an existing system should hesitate to have that mastery wiped out by the introduction of newer ways of doing

things. The period of great procedural reform in England in the eighteen thirties found the English bar arrayed against that movement. To them Blackstone was the last word in perfection. But Bentham and his followers, who comprised few of the leading lawyers of their day, pushed aside that opposition to remould after some twenty years the whole English judicature. Dickens' *Bleak House* with its devastating attack upon Chancery jurisdiction and practice, as a result of Bentham and his movement, is, fortunately, a matter of ancient history and not reality.

The same tendencies are to be found in American legal history. The abolition of the old Federal circuit courts, for example, in 1911 was strongly opposed and successfully delayed for many years by the opposition of the great monied lawyers of the East. Reforms in the law of evidence today are hardly greeted by the bar with enthusiasm, despite the fact that it now takes Dean Wigmore eight long volumes to explain the existing law. The new federal rules of civil procedure were long overdue, while their passage represented the culmination of some thirty years of effort.

A third and important source that has made for a want of sympathetic understanding of administrative law is a professional jealousy not infrequently exhibited by the bar. The origin of that seems to me not due to any innate lack of generosity on the part of the bar as a whole but to methods of legal education and conceptions of the role of the lawyer that were dominant in the nineteenth century. In this country almost as late as 1900 professional education was divided into three categories—the ministry, medicine and the law. To the first was allotted the ills of the body spiritual, to the second those of the physical body, and to law the problems of the body politic. In other words, our profession by tradition and by common consent had a monopoly upon the delicate and important business of adjusting the conflicting claims and desires of individual against individual. Only late in the nineteenth century did the new professions come into being—the economist, the sociologist, the criminologist, the labor economist and the host of other new professions that today require as rigorous and as prolonged a training for their mastery as does law. But we still are in the throes of shaping a philosophy as to the place that is to be allotted to these new experts in the adjustment of human claims—the business of law.

I might illustrate this by a concrete problem drawn from the field of rate regulation. As you know the confiscatory quality of a rate depends upon whether it affords a fair return on something. That something some urge should be original cost. Others say prudent investment. A third group insist upon reproduction cost, while a fourth call for fair value which is a combination of all the others. Obviously some one must decide between these conflicting theories, and presumably we could agree that it would be best to have the best equipped man decide. Is it training in law, in economics or in engineering that would best equip one to decide such an issue?

Similar questions can today be found in many branches of law, and in these branches men trained in other disciplines than the law are insist-

ing upon a claim to participate more directly in the shaping and application of rules of wise conduct. Here, it seems to me, lies one of the chief reasons for the rise of administrative law—the demand for expertness of adjudication in fields where the problems are new and complex and where the answers are difficult. That demand for expertness cannot lightly be brushed aside by the legal profession. It exists, and if the lawyer fails to satisfy the world of his own expertness to handle these new issues, new experts are certain to take his place.

I do not believe that the essential singleness that characterizes law will enable the legal profession to insist upon that monopoly of adjudication that has characterized the administration of justice in the past. Nor do I believe that it should try to do so. Rather one should recognize that the legal profession has its own special field of expertness upon which it can rightly insist, but at the same time it must leave to other tribunals the fashioning and shaping of policy in those fields in which they possess a special expertness.

This partition of jurisdiction between the legal profession and other professions seems to me to lie at the heart of today's controversy concerning the extent to which there should be judicial review of administrative action. If one recognizes this, it follows that the formulas that are evolving and which deal with the relationship that courts bear to administrative agencies should have reference to the quality of expertness possessed by these varying tribunals. The danger is that formulas will evolve which are not based upon these differences but follow some traditional but hollow concept of ancient learning.

I have tried heretofore to express the fundamental philosophy that should prevail by insisting upon extensive review by courts on all questions of law but also insisting that court review should be limited to questions of law. But that statement is meaningless unless we define for ourselves the meaning of questions of law. The only satisfactory definition I have ever found is that questions of law are those questions that lawyers by virtue of their training and experience are equipped to decide. Into that category, of course, fall those questions that relate to the essential fairness of procedures adopted by agencies to explore controverted issues, for the whole essence of the lawyer's concern through the centuries has been just that. He knows, as the economist does not know, the intrinsic value of notice and the opportunity to be heard, the essential necessity of the right to confront one's accusers, the prime importance of the privilege of cross-examination. These and similar matters are his domain as well as an understanding of whether conclusions pass beyond the bounds of rationality. But issues of judgment on matters of policy, as to whether depreciation should be charged on a straight-line or some other basis, as to whether the particular internal relationships of a labor union are proof against its domination by the employer, as to what is a fair wage in a particular industry for a particular community, are matters for which his training and his experience have not particularly fitted him and which should rightly be left to men who in other ways may have achieved expertness in those fields.

Here is thus one of the great challenges thrust forward by the rise of administrative law, for it forces a re-thinking of the relationship of law in its traditional sense to the new trainings and disciplines that the twentieth century has given us. It also forces concern over the areas in which the community can rightly expect lawyers to be expert and thus drives us to re-examine our traditional methods of legal education. In this field law teachers and lawyers must strive to answer the question of the fields of expertness for which the law schools can adequately train men. In the light of the answers that we make there, we can then rationally and equitably apportion between law and the other professions the seamless and spreading web of the administration of justice.

I cannot leave this field without touching on a second of the great challenges surging forth from the growth of administrative adjudication. This is the challenge that it offers to the umpire system of administering justice which reached, perhaps, its full height at the turn of this century. Lord Macaulay uttered a profound truth when he said that the best way of getting at the truth of a matter is to have both sides vociferously argued. That principle is after all basic to the whole system of common law adjudication, and no one has yet found a better way for reaching truth in most matters. That umpire system works well enough provided only that there is equality of presentation. But remove that equality and the chances of the umpire reaching a right result are seriously diminished. Of course, we know that because of the variations that exist in human talents, equality of presentation in individual cases will be wanting. These are the accidents of the litigious process and as such are not too serious. What has happened, however, during the past fifty years is that new claims are being pressed by persons without the capacity to present them. That lack of capacity may derive from poverty, from the smallness of the claim of the individual, however large it might be in the aggregate, or from the scattered character of the numerous claimants. I think, for example, of the claim of the employee against discrimination because of his union affiliations, the claim of the small stockholder caught in a vicious plan of reorganization with the management, the bankers, and the controlling stockholders arrayed against him, or the claim of scattered farmers complaining of discrimination in the rates for shipping produce. To pass a law recognizing these claims and referring them to the ordinary judicial tribunals for vindication would have been useless. Inadequate presentation of such claims as a class was certain and with inadequate presentation the umpire system would fail to bring about their appropriate vindication.

It was this characteristic of judicial determination that has made uniformly for the past fifty years for the reference of such claims to administrative tribunals upon whom could be put not only the responsibility of adjudication but the responsibility for their presentation. That device, so current in the field of federal administrative law, has, in turn, raised its own separate problems among which, for example, is that commonly phrased in terms of one agency being both prosecutor and judge.

These are serious problems, but just as serious is the challenge implicit in the administrative system to the older umpire method. How in-

adequate for some of our modern tasks the umpire system was, is demonstrable by the startling fact that during the past fifty years, almost every important statute that recognized new claims has entrusted the vindication of those claims to agencies other than courts. Indeed, as one calls the roll of the great issues of American political life over these years, one is also calling the roll of the more important administrative agencies. Railroads, banks, insurance, monopoly, communications, Wall Street, labor—to mention only a few—have their *contra* entries in new fields of administrative law.

The immensity of that development is only surpassed by the immensity of the challenge that it offers to our traditional methods of handling legal business. It would seem obvious now that the judge in fields similar to these, where he still retains the responsibility of initial adjudication, can no longer be satisfied with leaving the development of the record simply to the parties litigant in the hope that the public interest may possibly find expression through them. But we are still slow in devising mechanism to aid him or enable him to discharge these new responsibilities. Only now in a limited way are we placing expert assistance at his own beck and call; only slightly have we changed the role of the district attorney from that of policeman to public counsellor. But developments along these lines must be made if the challenge of the administrative method is at all to be met.

It seems plain that challenges of this character cannot be met simply by railing at the administrative process. For despite some of its patent defects that process is entering more and more into American life, and gaining more and more adherents. It does so only because it fills certain lacks. Just as in the seventeenth century the outcry of the common law judges and the common law bar against the new and dangerous system of equity failed to stem its advance, mere condemnation of administrative methods of dispensing justice, will fail to alter one of the truly great currents of legal history. Like the rise of equity, administrative law for the moment seemingly threatens to put alien hands upon the sacred ark of the covenant. But these hands seem alien, I believe, only because of our own inadequate and myopic vision. If we truly see the significance of this rise, we see it as a response to the desire of communities for more knowledge, more wisdom, more expertness in the handling of claims. That desire can no more be denied than could the revolt of the seventeenth century against the strict formalism of the common law with its insistance upon the reference of judgment to criteria of fairness and conscience instead of sterile precedent. And just as for decades resistance to this demand characterized the older common law, finally to give way to appreciation that both law and equity had their proper parts to play in a greater, more humane, legal system, we must speed rather than delay the period when understanding and mutual respect rather than distrust color the relationship between traditional law and administrative law. One is not the step-child but the handmaiden of the other, pursuing its ends in somewhat different ways and with somewhat unfamiliar techniques, but devoted also, as law must be, to the endless task of shaping and applying those wise restraints which make men free.

AFTERNOON SESSION, JUNE 27, 1941

President Morse called the meeting to order and opened the floor for nominations for president. On motion of Mr. Thompson McClellan, nominating speeches were limited to five minutes and seconds to two minutes.

Mr. R. M. Kelly nominated Alexander Currie of Hattiesburg. The nomination was seconded by Mr. E. L. Dent, Mr. George M. Ethridge, Jr., and Mr. Earl Wingo.

Mr. A. H. Bell nominated Mr. Richard Denman of Greenwood. The nomination was seconded by Mr. Jamie Whitten.

The ballot showed Mr. Currie elected by a vote of 168 to 70, and, on motion of Mr. Denman, the election was made unanimous.

The President opened the floor for nominations for First Vice-President. Mr. Bidwell Adam nominated Mr. Charles F. Engle of Natchez. The nomination was seconded by Mr. W. L. Guice and, on motion of Mr. R. M. Kelly, the nominations were closed and Mr. Engle elected by acclamation.

The President declared the floor open for nominations for Second Vice-President. Mr. George M. Ethridge, Jr., nominated Mr. George R. Neblett of Shelby. The nomination was seconded by Mr. J. P. Coleman and Mr. Alfred Moore. Mr. Charles A. Sisson nominated Mr. John C. Satterfield of Jackson. The nomination was seconded by Mr. Clark. The ballot showed Mr. Satterfield elected by vote of 119 to 86, and, by motion of Mr. Neblett, the election was made unanimous.

The members of the convention separated into various district meetings and elected the following commissioners:

First District—Ben H. McFarland, Aberdeen
Second District—R. W. Thompson, Jr., Gulfport
Third District—Hindman Doxey, Holly Springs
Fourth District—Arthur Jordan, Greenwood
Fifth District—Rupert Ringold, Winona
Sixth District—Maxwell Bramlette, Woodville
Seventh District—Leon Hendrick, Jackson
Eighth District—Dees Stribling, Philadelphia
Ninth District—Landman Teller, Vicksburg
Tenth District—J. A. Riddell, Meridian
Eleventh District—J. W. Bell, Jr., Tunica
Twelfth District—Quitman Ross, Laurel
Thirteenth District—Homer Currie, Raleigh
Fourteenth District—Junior O'Mara, McComb
Fifteenth District—C. E. Gibson, Monticello
Sixteenth District—J. E. Carradine, West Point
Seventeenth District—J. H. Caldwell, Charleston

When the convention came to order again, Mr. Hugh N. Clayton called its attention to the fact that the Chairman of the Junior Bar Section

was not a member of the Board of Commissioners and moved that it be the policy of the State Bar that the Chairman of the Junior Bar Section be invited to attend all meetings of the Board of Bar Commissioners. The motion passed.

President Morse then declared the election of the place of meeting for next year to be the next order of business. Mr. W. L. Guice presented Mr. George B. Cousins, Jr., who extended an invitation from the City of Biloxi. Mr. Ross R. Barnett extended an invitation from the City of Jackson. Mr. George P. Cossar and Mr. Bidwell Adam spoke in favor of Biloxi, and Mrs. Elizabeth Hulen and Mr. H. A. Shotts spoke in favor of Jackson. By standing vote, Biloxi was chosen as the next place of meeting.

President Morse then called upon Mr. Quitman Ross to escort Mr. Alexander Currie to the stand, Mr. Bob Thompson to escort Mr. Charles F. Engle, and Mr. Charles A. Sisson to escort Mr. John C. Satterfield. Each of these newly elected officers expressed his appreciation to the members of the convention.

Motion to adjourn was adopted.

PROCEEDINGS OF THE FIFTH ANNUAL MEETING OF THE

Junior Bar Section

Held in the City of Gulfport, Mississippi on the 25th of June, 1941

The meeting was called to order by the Chairman, George M. Ethridge, Jr., who recognized Mr. Hugh N. Clayton to present the following resolution.

RESOLUTION ON SENATOR HARRISON

WHEREAS, the State of Mississippi and the United States of America have been deprived of one of their most valuable and distinguished citizens, and the legal profession one of its most outstanding statesmen and leaders, in the loss by the death of Senator Pat Harrison, who for more than 30 years devoted his entire energies to the best interest of this state, and

WHEREAS, Senator Harrison, as District Attorney, Congressman and Senator, exemplified by his life to those with whom he came in contact the essential ideals and characteristics of true Americanism and the qualities of a true southern gentleman

NOW, THEREFORE BE IT RESOLVED, By the Junior Bar Section of the Mississippi State Bar Association, the entire membership concurring therein, that they express their sincerest sympathy and words of condolence to his beloved wife and family in their hour of sorrow and also to the many throughout the world who mourn at his passing.

BE IT FURTHER RESOLVED, that the regular scheduled annual meeting of the Junior Bar Section at 2:00 p. m. be and is hereby adjourned in honor and respect to Senator Harrison and his beloved family; and in order that the membership may attend the funeral.

BE IT FURTHER RESOLVED, that a copy of this resolution be placed in the minutes of this meeting, one sent to the press, and one to be sent to the members of his beloved family.

Hugh N. Clayton, Chairman
Geo. R. Neblett
Geo. M. Ethridge, Jr.

The resolution was unanimously adopted and the meeting adjourned to reconvene at 4:30 p. m.

At 4:30 p. m., the meeting was again called to order by the chairman, who called upon Judge T. C. Kimbrough, Dean of the University of Mississippi School of Law, to introduce the speaker of the afternoon, Mr.

Sam Johnston, of Mobile, Alabama, President of the Alabama Bar Association. In making the introduction, Judge Kimbrough emphasized the fact that Mr. Johnston was a native Mississippian and a graduate of the University Law School. Mr. Johnston brought greetings of the Alabama State Bar and extended an invitation to the Mississippi lawyers to attend the meeting of the Alabama Bar Association in Mobile on July 11-12. He then delivered the following address.

THE PRESENT DUTY OF THE LAWYER

SAM M. JOHNSTON

I am happy to return to my native State and to be with you on this occasion. When I moved from Mississippi to Alabama in 1918, I never felt that I was severing ties with my native State. Alabama and Mississippi have always been devoted and inseparable sisters. Born of the same mother and dedicated to a common mission, their histories form a splendid and striking parallel. Mississippi was admitted to the Union in 1817, only to be followed by her younger sister two years later. From that date their fortunes have ebbed and flowed in unison. The defeats of one have caused a common sorrow; the victories of the other a mutual celebration. It was only a few years after Colonel William B. Travis, a son of Alabama, had fallen in imperishable glory with Davy Crockett and Jim Bowie amidst the ruins of the Alamo that Jefferson Davis with his Mississippi Rifles was writing military science and tactics with blood and iron at Buena Vista.

The defiant shout hurled by the gallant Pelham at Fredericksburg was answered by the battle cry of Mississippi's warriors on the bloody fields of Shiloh, Vicksburg and Chickamauga. Following Appomattox, Mississippi and Alabama drank together the bitter dregs of defeat; and shoulder to shoulder through the dark days of Reconstruction, they helped to lift the prostrate body of the Confederacy from its night of despair into that glorious and brighter morning which we, with pride and joy, boast of as the New South.

It is indeed a happy occasion to be here and mingle again with friends of yesterday. The happiest days of my life were spent among the cool shades and hallowed grounds of the University of Mississippi. There I formed friendships which have clung to me unto this day, and of which I shall ever rejoice.

Possibly at no time in the history of our States has human liberty been in greater peril. With a reckless adventurer ravaging Europe and threatening Asia and Africa, one is concerned whether our own institutions can survive. The magnificent inventions of the human mind are now chained to the chariot wheels of war; chemistry and physics have become the hand maidens of destruction; and the glorious victories of the human spirit are fading away before the savage and ruthless conquests of greed, avarice, and unspeakable cruelty.

The Teuton is on the march again. The Gaul has folded his tent and bowed to his ancient enemy beyond the Rhine. The British lion is at bay; thousands of man made eagles of the Third Reich, bearing destruction in their steel talons and poised above the green meadows and once happy fields and populous cities of England, unleash with savage fury glowing death-shot not only upon soldiers but also upon innocent women and children—blood of our blood and people of our people.

The herculean efforts of Hitler and his Nazi Party to construct a totalitarian state in Europe whose influence and power would encircle the entire globe cause one to inquire into the origin of their motives. Undoubtedly, the humiliating defeat of German Arms in 1918 contributed in no small degree to the present resurrection of the German nation. From her night of disaster, Phoenix-like, Germany sprang to arms with a lusty and martial spirit to overcome, one by one, almost every continental power in Europe, including her ancient and hereditary foe, the Republic of France. With the heel of the conqueror upon her neck, she felt the evil promptings of revenge; and, with a capacity for detail and a genius for organization, seldom equalled and never excelled, she has become the greatest, indeed the most daring, military power the world has ever known. Her present strategic and imperial position was gained only by prodigious labors and ruthless tactics. It is not the natural consequence of generous and humane efforts measured by rules of law or principles of justice.

The very moment Adolph Hitler encompassed the philosophy of Mein Kampf and looked beyond the rights of the single individual to the collective and formidable power of the whole German people—that very moment and liberty and justice began their flight beyond the limits of the Third Reich. The German nation might have found a happy and peaceful destiny among the powers of the world through constitutional means and reform.

Despotism is but an excess of power reposed in a single individual or group of persons and used banefully to the people's injury. When Dr. Johnson said that, "Government at a distance is tyranny," he compressed into a single thought, with a very few words, a political truth that is ever acknowledged but seldom heeded. The cynical Russian noble who stated to Count Munster upon the murder of the Mad Czar Paul I, "Despotism tempered by assassination, that is our Magna Charta," described most vividly the ultimate of power in its most centralized and hideous form.

The genius of Anglo-Saxon institutions is local self-government. Freedom passes from a community in direct proportion that its power is surrendered to an individual or group of individuals beyond that community. The gradual centralization of power in our National Government is now causing danger signals to flare up in every part of our country. Our Federal Government, which was originally designed as the mere agency of the several states, has now become their powerful overseer. The servant has become the master, and the problem confronting the American people is how to restrain this master from running unbridled over the frontiers

of freedom and destroying those rights won by our forefathers at such sacrifice and cost.

The perennial concentrating of power in our national Government can lead to but one thing—tyranny. The old maxim "The greater the power, the greater the abuse," becomes a frightful omen under our form of Government. No man, however intelligent or virtuous, is a safe repository of unlimited power. The line of demarcation between a dictatorship and a Constitutional Government may sometimes become shadowy. The rights of the people may be lost as irretrievably by constitutional means as through unconstitutional encroachments. Liberty may perish though clothed in the robes of legality.

Rights surrendered or lost to a dictator in a country of limited territorial area and population, such as Switzerland, England, Belgium or Holland, may be recaptured without too much difficulty. The people of those states can rise as units and overthrow their tyrants, but once a dictator seizes the reins of Government in a country the size of Russia or the United States, the freedom of the people, if not gone forever, is lost for generations.

The Communist Party, in first becoming master of Petrograd and Moscow, early captured the keystones of political power in Russia. From these founts of authority Lenin, Stalin and their disciples have imposed tyranny gradually upon the Russian people to a degree far greater than was ever accomplished by Ivan the Terrible or Peter the Great. In their technique of arrogating power, troops were drawn from the Ukraine and used against the population of northern and eastern Russia; the Cossacks of the Don were thrown into the Ukraine; and by playing troops from one part of the country against the people of the other, these unscrupulous and inhuman monsters have cast the Russian people into hopeless and abject slavery.

And the same results may be wrought in the United States. The keen economic, racial and political rivalries existing among the several parts of our country make a fertile field for the propagation of the evil forces that tend to those servile conditions. Once an ambitious and unconscionable Chief Executive, granted unlimited authority to search into every phase of our civic life, has felt the spell and magic of power, our nation will be helpless to curb him. The Man on Horseback, casting his shadow athwart 48 states, can develop into the most dangerous foe our people have yet had to contend. Prompted by ruthless ambition and with a contempt for liberty, he could throw New England troops into the South, Southern troops into the Northwest, troops from New York City into the great mid-west, and by pitting the troops of one part of the country against the people of the other, weave into the fabric of our fate a despotism as secure, as strong and as ruthless as that of the Soviet Union.

The present duty of the lawyer is to interpret the signs ahead, to meet the dangers boldly, and to exercise that courage and energy for liberty characteristic of his forefathers. The contributions made by law-

yers to Anglo-Saxon freedom are sufficient in themselves to fill many volumes. We know that while Sir Edward Coke distinguished himself in fighting for the independence of the judiciary, he was no less renowned for wrenching from the reluctant grasp of Charles I the Petition of Right —that magnificent charter which guaranteed again to Anglo-Saxon freemen their ancient liberties and rights. We know that Lord Somers, distinguished lawyer, patron of science and literature, friend of Addison, both inspired and aided the adoption of the Declaration of Rights to prevent a recurrence of the encroachments of the last of the Stuart Kings upon the sacred privileges of the British people.

It is of common knowledge that Thomas Erskine, one of the brightest ornaments the legal profession can boast, saved the liberties of the English people. When John Scott, later Lord Eldon, as Attorney General, under the government of the younger Pitt, began those infamous prosecutions for constructive treason against many of the finest citizens of England, there sprang forward as the champion for the defense of Anglo-Saxon liberty, that celebrated lawyer, Thomas Erskine, whose eloquence in the open forum has never been surpassed by any orator, ancient or modern. In case after case, juries retiring to their cold jury rooms after midnight to deliberate upon life and death, with no hope of fire, food or water, brought forward for him verdicts of not guilty to the acclaim and joy of the British people.

The part contributed by American lawyers to the adoption of the Declaration of Independence and of the Constitution of the United States is one of the noblest traditions of our profession, and presents one of the happiest scenes in the whole field of jurisprudence. The South, in particular, owes a debt of gratitude to the lawyers of this country. And when I speak of lawyers, I use the term in its generic sense, as including judges and teachers of the law.

In times of war or of unusual danger, the passions of the multitude run riot. Then is the time injustices are practiced, and rights are trampled under the feet. When the sea is calm and the ship sails happily on, there is no cause for anxiety, but once old ocean begins to dash his turbulent waves against the ship's sides and to strain her timbers from bow to stern, the sturdy hand and the calm judgment of the master of the vessel is required.

Following the Civil War, the rights and privileges of those citizens believing in the Confederate cause were dangerously imperilled. An embittered Congress, seeking revenge in its most violent form, sought, as did the legislatures of some of the conquering states, to impose great hardships upon them. In 1875, Congress, by the Civil Rights Act, provided that all persons within the United States were entitled to the full and equal enjoyment of inns, public carriers, theaters, and other places of public amusement, regardless of their race, color or previous condition of servitude, and made it a criminal offense for anyone to deny another such a right, but the Supreme Court of the United States, in a decision of great moment and importance to the people of the South, struck it down as unconstitutional and void.

When the State of Missouri, immediately following the Civil War, passed an act making it a criminal offense for any Minister of the Gospel to go into his pulpit and preach the Word of God unless he first took an oath that he had not during the late War aided or even sympathized with the Confederate Cause, the Supreme Court of the United States struck down the act as null and void for violating that section of the Constitution of the United States prohibiting bills of attainder.

When Congress passed also an Act forbidding any lawyer who should not have first taken an oath that he had not given aid, counsel or encouragement to persons engaged in armed hostilities to the United States, from practicing in the Federal Courts, the Supreme Court reached out its potent and stern hand and with the sword of justice struck down the act as unconstitutional and void.

When Arlington, the home of Robert E. Lee was confiscated by the Federal Government, the Supreme Court of the United States, in a memorable decision, declared that his property could not be taken from his heirs without due process of law and just payment therefor.

The history and progress of American independence is the history of lawyers. Wise in matters of Government, generous in conduct, and courageous for the defense of truth, the American lawyer of today would be recreant to the noble traditions of his profession and to the ideals of the law, unless he marshals every fiber of his being to prevent an encroachment upon those fundamentals of human rights guaranteed by Magna Carta, the Petition of Right and the Bill of Rights. The law must be preserved in all her spirit and majesty. Of the law it has been said: "Her seat is the bosom of God; her Voice, the harmony of the world; all things in heaven and earth do her homage—the very least as feeling her care, and the greatest as not exempt from her power." I am fearful for the future of our Government, unless the lawyer arouses himself. By education, training and profession, he is the natural defender of our Constitutional rights. May he, like the early Chief Justices of England, when the enemy crossed the threshold of their country, cast off for the moment the cloak of his office to shoulder arms and fight the enemy until he is dispersed and overcome.

Young gentlemen of the Bar, I am very happy to be with you today. You have a heritage to be proud of. May the spirits of Sargent S. Prentiss, Jefferson Davis, James Z. George, and L. Q. C. Lamar, move you to ever increasing reverence for our Anglo-Saxon institutions. If the lawyers of our country let the rank and file of our people know that, through the genius of our Constitution, America has become the greatest moral, spiritual, and economic force in the world, the results are inevitable. Our Ship of State, now sailing upon new and uncharted seas, will continue its voyage and in the end will be brought home safely into port.

Chairman Ethridge called for the report of the Committee on Admissions to the Bar, which was presented by Charles A. Sisson, chairman.

REPORT OF COMMITTEE ON ADMISSION TO THE BAR

At the last meeting of the Junior Bar Section, your Committee on Admissions to the Bar was instructed to prepare and present at this time proposed legislation whereby the membership of the Board of Bar Admissions should be composed of a member, or members, from the faculty of the Law School, a member, or members, from the Supreme Court, and a practicing attorney, or attorneys, of the Mississippi State Bar, whose term of office should be for six years, with the further provision that such change should not go into effect until 1944. This your committee has done, the proposed act being hereto attached.

Your committee also felt that a change should be made in reference to non-resident attorneys moving into the state and taking up the practice of law in Mississippi as a resident attorney. The committee felt that such attorneys should submit to a bar examination or be a resident of the state for at least a year before attempting to practice as a resident attorney. This proposed change was felt to be needed by resident attorneys in certain sections, due largely to the development of oil and gas in the state, which caused an influx of attorneys into the state from other states. To take care of this situation, a proposed act was drawn up and is hereto attached.

Some members of the committee felt that all applicants for admission to the bar should be graduates of an accredited law school; and others felt that the graduates of the Law School of the University of Mississippi should be required to take the examination given by the Board of Bar Admissions; but the committee as a whole felt that such proposals should be considered further and, if thought to be advisable, presented at some later meeting of the Junior Bar Section.

Respectfully submitted,

Charles A. Sisson, Chairman.

The text of the proposed acts, which were attached to the report of the Committee on Admission to the Bar, follow.

An Act to Prescribe the Method of Appointment of the Members of the Board of Bar Admissions

Section 1, Be it Enacted by the Legislature of the State of Mississippi, That Section 1 of Chapter 122, Laws of 1932, Regular Session, be and the same is hereby amended to read as follows:

Section 1. Board of Bar Admissions. There shall be created a board to be known as Board of Bar Admissions, to consist of six members to be appointed by the governor, as follows: two members from the faculty of the Law School of the University of Mississippi, two members from the membership of the Supreme Court of the State of Mississippi, and practiced for at least ten years; their term of office to be for six years two members who shall be practicing attorneys of the state bar, who have and until their successors are appointed and qualify.

The first members shall be appointed January 25, 1944, or as soon thereafter as possible, and shall be for six full years. In case of a vacancy, the appointment shall be for the unexpired term.

Section 2. That all laws and parts of laws in conflict are hereby repealed.

Section 3. That this Act shall take effect and be in force from and after January 25, 1944.

AN ACT TO PRESCRIBE REQUIREMENTS FOR ATTORNEYS FROM OTHER STATES TO PRACTICE LAW IN THE STATE OF MISSISSIPPI AND SET A PENALTY FOR THE VIOLATION THEREOF

SECTION 1. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI, That Section 3 of Chapter 122, Laws of 1932 Regular Session, be and the same is hereby amended to read as follows:

Section 3. (a) "Any person duly authorized and practicing as an attorney at law in any state or territory of the United States or in the District of Columbia may practice as such in the courts of this state as a visiting attorney upon producing before the courts in which he intends to practice satisfactory evidence of his being so authorized. But this section shall not be construed as allowing such attorney to practice law in this state as a resident attorney on a license granted by another state or territory or by the District of Columbia. An attorney at law licensed to practice as such under the laws of another state, territory or the District of Columbia, who shall desire to practice law in this state as a resident attorney must have been a resident of the State of Mississippi for one year before attempting so to practice in this state. But nothing herein contained shall be construed as affecting the rights or status of attorneys admitted to practice in this state at or before the time this act takes effect; and

Provided further that nothing in this act shall prohibit an attorney at law, licensed to practice under the laws of another state, territory or the District of Columbia, from taking the State Bar Examination and being admitted to practice law in Mississippi, without prior residential requirement.

(b) "Any person violating any provision of Section 1 of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars ($500.00) or be imprisoned in the county jail for not more than six months or both in the discretion of the court."

Section 2. That all laws or parts of laws in conflict herewith are hereby repealed.

Section 3. That this Act take effect and be in force from and after its passage.

Motions to adopt both of the acts recommended were passed. There was some discussion as to the exact date on which the new board should be appointed, and it was agreed that the committee should make certain that the date would be after the inauguration of the new governor and before the time for giving the winter bar examinations. As to the second act, there was a small amount of discussion as to the effect it would have upon reciprocity with other states, but there were no changes made.

The chairman then introduced Mr. J. Morgan Stevens, Jr., Chairman of the Committee on Legislative Drafting, to present the report of that committee. Mr. Stevens filed the following report, not reading it through, but describing its salient features.

REPORT OF LEGISLATIVE DRAFTING COMMITTEE

At the 1940 Convention of the Junior Bar Section, the Legislative Drafting Committee was continued and charged with the responsibility of drafting an act for the creation of a Legislative Drafting Bureau, suitable for the needs of the Legislature and State of Mississippi. We submit herewith a form of act for this purpose, patterned closely after the model act published by the Junior Section of the American Bar Association, in the report of the Committee on Legislative Drafting at the 1938 meeting of the American Bar Association at Cleveland, Ohio. We, also, submit herewith a copy of the report of the Committee on Legislative Drafting of the Junior Bar Section of the American Bar Association, because this report contains a splendid statement of the advantages of a legislative drafting and research bureau.

We have re-written the model act sponsored by the committee of the Junior Bar Section of the American Bar Association, so as to make it conformable to practice in Mississippi, and to our outstanding statutes on publications of the proceedings of the Legislature and its acts.

Part II

Your Chairman, without having had an opportunity to fairly present the subject to the members of the committee, recommends that our Section continue the effort to obtain a recodification of the laws of Mississippi. A proposal for a code revision was rejected by the State Bar several years ago, after having been recommended by the Junior Section, but it is respectfully submitted that this subject is worthy of continued consideration. I have asked some of the representatives of our law book publishers to display at this convention representative examples of the code publication of other states in multiple volumes, so that we can see how such codes are being handled for other states, and I ask that you seriously look over these specimens and that we consider the advisability of our Section, through its appropriate committees, or by an appropriate resolution, using our influence to either obtain a revision of our code, or a compilation thereof, and publication in a more economic and convenient form, which

can be kept up to date from time to time with pocket part supplements and replacement of the smaller volumes.

Respectfully submitted,

John Morgan Stevens, Jr., Chairman
Viola Lee James
Edward J. Bogen
Carl A. Chadwick
Josephine Hood
James A. Blalock
John Satterfield
Stewart Broom, Jr.

There follows the model act for the creation of a Legislative Drafting Bureau which was recommended in the report of the Legislative Drafting Committee.

A Model Legislative Reference and Drafting Bureau Act

Be it Enacted by the Legislature of the State of Mississippi:

Section 1. There is hereby created a Legislative Reference Bureau (as an independent agency of the state government) for the use of the members of the Legislature, the Governor, and the various departments, institutions, and agencies of this state, as well as for a limited service for such citizens of this state as may desire to avail themselves of its reference facilities.

Section 2. General Purposes. The purpose of the said Legislative Reference Bureau shall be:

A. To assist the Legislature of this State in the proper performance of its constitutional functions by providing its members with impartial and accurate information and reports concerning the legislative problems which come before them; and by providing a digest showing the practices of other states and governments in dealing with similar problems;

B. To furnish to the members of the Legislature of this State the assistance of expert draftsmen, qualified to aid the legislators in the preparation of bills of introduction into this Legislature;

C. To prepare for the Legislature measures which will improve the form and wording of and reduce the size of the statutes of this State, and clarify, reconcile, and codify their provisions;

D. To provide for this Legislative staff facilities which will be comparable in quality and adequacy to those which this Legislature provides for the other departments of the government of this State;

E. To provide, if possible, for the publication, periodically, of annotations and citations to the statutes of Mississippi and the decisions of the Supreme Court.

SECTION 3. APPOINTMENT OF DIRECTOR—QUALIFICATIONS—SALARY. The Legislative Reference Bureau shall be in charge of a director appointed by a committee consisting of the governor, attorney-general and Chief Justice of the State Supreme Court. He shall be chosen without reference to party affiliations, solely on the ground of fitness to perform the duties of the office. He shall be well versed in political science and law and in the methods of research and bill drafting. He shall hold his office for a term of eight years from the date of his appointment and may be chosen to succeed himself, but he may be removed at any time by a vote of the majority of the members elected to each house of the Legislature. He shall be paid a salary of $_____ per annum and any necessary traveling expenses, payable monthly as the salaries and expenses of other state officers are paid.

SECTION 4. APPOINTMENT OF REGULAR AND TEMPORARY EMPLOYEES. The director shall appoint such technical, clerical, and stenographic assistants as may be necessary to carry out the provisions of this act, and shall fix the compensation of each within the appropriations made for the office. For a period commencing one month prior to each regular session of the Legislature, and ending one month thereafter, the director may appoint and, within the appropriations provided therefor, may fix compensation of such stenographic and emergency assistants as may be necessary to expedite the work of the bureau during the legislative session.

SECTION 5. APPROPRIATIONS. The director shall operate the bureau within the amounts appropriated for such purpose from time to time.

SECTION 6. OFFICES—COOPERATION BY AND WITH OTHER AGENCIES. The Legislative Reference Bureau shall be provided with adequate quarters in the state capitol where the bureau will be conveniently accessible to the members of the Legislature and to other persons having official business with it. The bureau shall be kept open during the time provided by law for other state offices, and when the Legislature is in session, at such hours, day and night, as are most convenient to the Legislators. The facilities of the State Library and of any other libraries maintained by the state, shall be available for the use of the bureau, subject to the rules of such libraries. Each state department shall, to a reasonable extent and upon request, furnish to the Legislative Reference Bureau such documents, material, or information as may be requested by the members of the Legislature or by the director of the Legislative Reference Bureau.

SECTION 7. SPECIFIC FUNCTIONS. The Legislative Reference Bureau shall endeavor to perform the following services:

A. REFERENCE SERVICE

(1) Provide a comprehensive research and reference service on legislative problems;

(2) Make such investigations into legislative and governmental institutions as will aid the legislature;

(3) Maintain a legislative reference room and small working library, and purchase for such library any printed or written reference material relating to problems of the state or political subdivisions thereof, as may aid the members of the legislature;

(4) Keep and file copies of all bills, resolutions, amendments, memorials, reports of committees, journals, and other documents printed by order of either house of the legislature, and collect, catalogue and index the same as soon as practicable after they have been printed;

(5) Assist and cooperate with interim legislative committees or commissions created by the legislature or appointed by the governor.

B. Bill Drafting Service

(6) Upon request, draft or aid in drafting bills, resolutions, memorials and amendments thereto and render any other services in connection therewith, for any member of the legislature or for the governor;

(7) Upon request advise members of the legislature and the governor as to the constitutionality of any proposed or pending legislation and as to whether such legislation is properly drafted and in conflict or in conformity with the federal, state constitutions and statutes.

C. Statutory Revision Service

(8) Conduct a systematic study of the statutes in effect in this state, in order to determine feasible ways for reducing their number and bulk, and for rendering them more consistent and intelligible;

(9) Upon request, assist any commission appointed to revise the statutes of this state, or any portion thereof; and, at the direction of such commission, draft appropriate bills to consolidate, revise, and clarify the statutes of this state;

D. Annotation and Citation Service

(10) Prepare annually a printed report for general distribution showing in tabular form: (A) prior and current Mississippi Supreme Court decisions cited, quoted, or referred to by decisions of such court rendered during the preceding year, with notations showing whether such decisions were followed, overruled or merely referred to; and (B) existing Mississippi statutes cited, quoted or referred to by decisions of the Mississippi Supreme Court during the preceding year, with notations showing whether the court held such statutes valid or invalid, interpreted them, or merely referred to them.

Section 8. Written Requests Required for Bill Drafting Service. All requests for the drafting of bills or resolutions by the Legislative Reference and Drafting Bureau shall be submitted in writing. Requests for the drafting of bills or resolutions shall contain a general statement respecting the policies and purposes which the bill is designed to accomplish. Each such request and statement shall be signed by the person who submits it. The bureau shall draft each requested bill to con-

form to the written instructions of the signer of the request, unless such request is withdrawn or altered by the signer; but the bureau may at the same time (or before drafting such bill) suggest to the signer a more desirable or appropriate form for such bill and point out possible or apparent conflicts or inconsistencies between the requested bill and the federal or state statutes or constitutions.

SECTION 9. PROHIBITIONS—UNPUBLISHED MATTERS NOT TO BE REVEALED WITHOUT CONSENT.

A. Neither the director nor any employee of the bureau shall reveal to any person outside the bureau the contents or nature of any request or statement for services, except with the consent of the person making such request or statement.

B. Neither the director nor any employee of the bureau shall urge or oppose any legislation, nor give any person advice concerning the legal effect of any bill or proposed bill except upon request of such person or in response to a request under prior sections of this Act for assistance or information.

C. Neither the director nor any employee of the bureau shall give any legal advice on any subject to any private individual or corporation.

D. Neither the director nor any permanent employee of the bureau shall, during his employment in this bureau, be interested in the private practice of law in any manner, nor be personally engaged in any other business for profit.

A violation of any provision of this section by any member of the bureau shall be sufficient cause for his or her immediate dismissal from public service.

SECTION 10. CONSTITUTIONALITY CLAUSE. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared to be severable.

SECTION 11. EFFECTIVE DATE. This act shall take effect from and after its approval.

Mr. Stevens moved the adoption of the report. A motion by Mr. George Woodliff to have the director of the bureau appointed by both houses of the legislature was lost, and the motion to adopt passed.

The Chairman explained that the Legislative Committee, headed by Mr. Maxwell Bramlette, had no report since the Legislature had not been in session. He then introduced Mr. Junior O'Mara, Chairman of the Committee on Pleading, Practice and Procedure, to present the report of that committee.

REPORT OF COMMITTEE ON PLEADING, PRACTICE AND PROCEDURE

The members of the Committee on Pleading, Practice and Procedure of the Junior Bar Section have held several meetings since the appointment of this committee in the year 1940 for the purpose of making recommendations or suggesting proposed changes in the rules on Pleading, Practice and Procedure governing the courts of this state.

1. A large amount of time has been spent by this committee in studying the proposed statutes of Civil Procedure as recommended by the Study Committee of the Mississippi State Bar Association. No doubt, each member of the Junior Bar Section is thoroughly familiar with the said Study Report for the reason that a copy of the same was mailed in the year 1940 to each member of the Bar Association.

After having carefully studied and reviewed the said report of the said Bar Committee, this committee feels that the said report should be recommended by it to the Junior Bar Section for the reason that each rule or suggestion in the same is a step toward simplification of the rules of Pleading, Practice and Procedure in this state and each of said rules is a progressive step toward assisting and aiding all members of the Bar of this state in the trial of cases.

Attention is hereby called to the fact that a careful review and consideration of the said report will reveal and disclose the fact that none of the said rules will detrimentally affect either the plaintiff or the defendant in any cause of action but the same will have a beneficial effect on all parties involved in a legal controversy.

The attention of the members of the Junior Bar Section is further directed to the fact that the members of this Committee have been advised that the said Study Report was not discussed or presented for discussion at the 1940 meeting of the Bar Association in Jackson, Mississippi, but the same was passed over for such a discussion and consideration by the State Bar Association until this year, and it is the understanding of this committee that the said report will be discussed at the 1941 meeting of the Bar Association. It is our understanding that such a discussion is to be one of the first orders of business to be brought before the Bar Association this year. Therefore, this committee has not attempted to discuss any one single rule in this report for the reason that the same will, no doubt, be fully discussed in the Bar Association meeting.

The Committee does feel and so reports that there are no radical changes suggested or recommended in the said Study Report but that the suggested changes are toward a simplification of the rules governing Pleading, Practice and Procedure in this state and are a step toward the improvement in such rules and present statutes as to make the administration of justice more sure and certain and less expensive to litigants.

2. This committee has been requested by the Executive Committee of the Junior Bar Section to make a study of a proposed change in the

several statutes governing cases in the Chancery Court. A good many letters have been received from various lawyers living in various sections of the state suggesting that the present statutes governing cases in the Chancery Courts should be amended so as to make all cases filed in the Chancery Court triable on thirty days service of process, the same as cases are triable in the Circuit Court after thirty days service of process has been had. This committee has given careful consideration to such a proposed change in the said statute and feels that such a change should be recommended to you. Such a proposal, however, shall not apply in any of the following cases or instances: (a) Bills and petitions taken pro confesso; (b) ex parte petitions; (c) proceedings in partition, where title is not controverted; (d) proceedings to foreclose liens; (e) in matters testamentary and of administration; (f) in minor's business; (g) in matters of persons of unsound mind and (h) in similar cases.

3. The attention of this committee has been directed to another change which, although not properly under the work of this committee, is hereby brought to the attention of the members of the Junior Bar Section. It has been suggested that Section 1669 of the Mississippi Code of 1930, and every other statute which might be in conflict herewith, be amended so as to require a creditor of an estate of a deceased to probate or file such claim with the Chancery Clerk within ninety days from the date of the publication of notice to creditors but that such period of ninety days shall only apply in instances where the value of the estate is not over $3,000. The present period of six months would still apply to any and all estates where the value of the estate is over $3,000.00.

The committee has given careful consideration to and has fully discussed such a proposed recommendation and feels that the same should be made.

The committee has not attempted to draft a form bill to be introduced at the next session of the Legislature concerning the second and third recommendations contained herein but feels that the drafting of such bills should be left to and handled by the Legislative Committee.

Respectfully submitted,

Junior O'Mara, Chairman

On motion of Mr. O'Mara the first item of the report was received and filed, and the two latter recommendations of the report were separately adopted.

The Chairman introduced Mr. Hugh N. Clayton, Chairman of Division A of the Committee on Cooperation with Young Lawyers. He explained that Mr. James P. Biedenharn, Chairman of Division B, had been inducted into the army and Mr. Jesse Graham appointed in his place. Mr. Clayton's report follows.

REPORT OF COMMITTEE FOR COOPERATION WITH YOUNG LAWYERS—DIVISION A

Division A of this Committee was directed to assist the members of the Senior Class of the School of Law of the University of Mississippi in securing suitable locations for the practice of law. Following the procedure established by the Committee of last year, the members of this Division asked the members of the Senior Class to designate what particular localities in the State they wished investigated as possible locations. Upon receiving that information, this Division made a survey.

The Division, as originally constituted, consisted of seven members. The Army took two of the members and the F. B. I. a third. Consequently, the four remaining members attempted to do the work of the Division.

On May 21st the members of the Division, Hon. Kermit R. Cofer, Water Valley, Hon. John W. Wade of the University, and myself met with the Senior Class at the Ole Miss Law School. At which time we conducted an open forum as to the possible locations within and without the State of Mississippi. Hon Ben. M. Caldwell was not able to be present but filed a written report which was presented to the Senior Class.

The discussion centered about what type of location a young lawyer should seek and what requisites should be present before a lawyer should select a particular place within which to practice law. Naturally, the subject was discussed with considerable interest and the practical experience and contacts of the members of the Division, we believe, were of benefit to the members of the Senior Class.

Following this discussion, the Chairman of the Division extended an invitation to the members of the Senior Class to attend the Mississippi State Bar Association here in Gulfport and particularly urged them to attend and take part in the session of the Junior Bar Section. They were welcomed into the Profession by the Division, speaking for the Junior Bar Section, and assured of our interest and concern for their welfare and our willingness to be of help in all occasions.

While, in the nature of things, the discussion was general, we feel that it served a distinct purpose and need, and we recommend the continuation by the Junior Bar Section of having an appropriate committee work with the young lawyers as they come into the Profession.

Respectfully submitted,

Kermit R. Cofer
Ben M. Caldwell
John W. Wade
Hugh N. Clayton, Chairman

On motion of Mr. Clayton the report was adopted.

Mr. George R. Neblett, Chairman of the Public Relations Committee, was then called upon to present his report.

REPORT OF PUBLIC RELATIONS COMMITTEE

Your Public Relations Committee makes this its annual report of the activities of the committee for the year.

As instructed by the Section at the last annual meeting the Committee has attempted to cooperate with all organizations who have had in whole or in part the purpose of creating a greater appreciation for America and more especially the Bill of Rights.

We have volunteered our services to and cooperated directly with the Mississippi Educational Association, the Committee on Americanism for the American Legion and the "40" & "8."

We have had circulated among the entire membership of the Section a general letter appealing to all the members of the section to cooperate with the above organizations and more especially with the local schools and civic organization who might from time to time sponsor or promote study groups or public forums for the purpose of arousing a greater appreciation of America and more especially the Bill of Rights. In this letter we enclose an address prepared by the Hon. Wm. H. Maynard of the Clarksdale Bar and a copy of a comparison of rights and denial of rights in America as compared with Totalitarian Nations prepared by Prof. W. E. Bufkin. We hope that the membership will use this material as a basis for remarks, speeches and addresses before public groups wherever possible.

Your Committee makes the following recommendations for the forthcoming year:

1. That the committee be continued.

2. That the committee be instructed to provide means of cooperation by the Membership of the Junior Bar Section with the responsible parties who are charged with the duty to promote the sale of Defense Stamps and Bonds.

3. That the President of the Section be authorized to appoint, in addition to the General Chairman of this Committee, Regional Chairman from each Congressional District in order that the Committee may be properly organized for direct responsibility.

Respectfully submitted,

George R. Neblett, Chairman

Mr. Neblett's motion to adopt was passed and the meeting adjourned.

EVENING SESSION, JUNE 25, 1941

The meeting was called to order by George M. Ethridge, Jr., Chairman. Mr. Ethridge introduced Mr. J. Morgan Stevens, Jr., who presented the following resolution which had been passed by the Executive Committee of the Junior Bar.

RESOLUTION

On motion duly made, seconded and adopted, the Executive Committee of the Junior Bar Section recommends that the Junior Bar Section of the Mississippi State Bar, at its 1941 annual Convention, adopt a resolution to the following effect:

RESOLVED, that the Junior Bar Section of the Mississippi State Bar strongly favors the continuation by the Supreme Court of Mississippi of the practice of hearing and deciding all appeals *en banc*. It is the sense of the Junior Bar Section of the State Bar that the Supreme Court of Mississippi was granted authority to hear and dispose of appeals in divisions, only so that it could care for an unusually crowded docket; and that so long as the Court can keep abreast of its docket without sitting in divisions, it should do so. The Junior Bar Section does not protest against any action of the Supreme Court in organizing itself into divisions or hearing and disposing of appeals by divisions, being confident that the Supreme Court has adopted in the past the course which then, in its opinion, appeared to the best interest of the litigants appearing before it and of the public; but does express the belief that, so long as the Court can keep abreast of its docket without sitting in divisions, it should do so and that the practice of disposing of all appeals *en banc* is generally preferred by members of the Bar of the Supreme Court.

THEREFORE, the Junior Bar Section of the Mississippi State Bar, in Convention assembled at Gulfport, Mississippi, June 25, 1941, respectfully petitions our Supreme Court to continue the practice of disposing of all appeals *en banc;* and suggests that if the Supreme Court should feel itself compelled to return to the practice of disposing of appeals by divisions, that such be done only as a temporary measure to enable the Court to catch up or keep up with its docket; that this petition is presented to the Court not as an attempt to dictate its rules of procedure, but only as the expression of preference of members of the Junior Section of the Mississippi State Bar.

RESOLVED further that this resolution be recommended for adoption by the members of the Mississippi State Bar.

On motion of Mr. Stevens the resolution was adopted, and Mr. Stevens introduced the following resolution which had also been approved by the Executive Committee.

RESOLUTION

WHEREAS, since the publication of the Annotated Code of Mississippi of 1930, there have been five regular sessions of the Mississippi Legislature, and another regular session will convene in January, 1942, together with special sessions of the Legislature, and the enactments of statutory law have gone forward at an accelerated rate, so that the statutes of Mississippi are now contained in the 1930 Annotated Code of Mississippi,

two large volumes, together with the session laws of 1930, 1932, 1934, 1936, 1938, and the Laws of Extraordinary session of 1932, 1935, first extraordinary session 1936, second extraordinary session 1936, extraordinary session 1938, and

WHEREAS, there have also been published two unofficial compulations of the laws of Mississippi, to-wit, the 1933 Code Supplement and the 1938 Code Supplement, both published by the Harrison Company, and

WHEREAS, it is burdensome and expensive to keep up with all of the publications of the Laws of Mississippi, and to accurately find said laws, which have been repealed and which are in force, and

WHEREAS, the adoption of statutes is likely to continue, as during the past decade, to the extent of a large volume of new enactments at each regular session of the Legislature, and

WHEREAS, the compilation of the laws of Mississippi into a multiple volume code which could be kept up to date by the publication of pocket parts and by substituting the republication of small volumes so as to avoid revisions, compilation and publication of all of the statutes in order to keep the code up to date, would be of great benefit to the courts and departments of the state of Mississippi, to the members of the Bar, and to the people of the State, THEREFORE,

BE IT RESOLVED by the Members of the Junior Section of the Mississippi State Bar, in convention assembled, that we petition the Legislature of the State of Mississippi to contract for the publication of the Code of Mississippi in multiple volumes, patterned after the United States Code Annotated, under a contract whereby the Code would be supplemented by pocket parts after each regular session of the Legislature, and kept up to date with annotations and citations, and when necessary by the substitution of such volumes thereof as could not conveniently be kept up to date with pocket parts.

Mr. Stevens made a motion to adopt, and the following debate ensued.

MR. STEVENS: Two years ago at the Biloxi Convention, there was a proposal made before the State Bar by the Junior Bar Section looking toward a Code revision or re-publication that followed the United States Code Annotated. One of the reasons that it failed was that those opposed to it felt that we did not need another code revision such as we have had in the past and such as the 1930 code was. It is a very expensive procedure to revise all of the statutes of the state and bring the code up to date. I am told that the publication of the 1930 Code of Mississippi cost the state of Mississippi about $67,000. I asked some of the law book publishers if they would send here and put on display some specimens of codes published in multiple volumes. They have done so, and they are here. They recently published the Code of Alabama, the Code of Massachusetts and the Code of Georgia. These codes are published in the same form, generally speaking, of the U. S. C. A. They are broken down into small

volumes so that it can be kept up to date by means of pocket parts, and when necessary to republish a chapter or group of chapters or when it becomes too large to carry forward all the pocket parts, then that volume can be substituted. Of course, we do not know what that would cost or what we could do with the legislature.

There was before the last Legislature a bill looking toward republication of the Code. It is my personal opinion that the state could republish the code in the form of a recompilation at a cost that would not greatly exceed that of the sort of revision republication we had in the past.

This resolution is designed to start a movement looking toward that purpose, and one whereby we could get a convenient code, an up-to-date code, and one that could be kept up to date at the least expense.

The Code of 1930 cost $15, and in addition we must purchase our session laws. I think it would be a great benefit if we could get a republication in this form, and I, therefore, hope that this resolution will meet with your approval.

MR. FREDERICK C. BERGER: I want to endorse Mr. Stevens' motion and say that not only should the members of the Junior Bar Section go on record as endorsing the movement, but I believe that every member of our Section should contact the members of the Legislature, both of the house and the senate, since the members of the bar are the leading citizens of the community and since the members of the Junior Bar are in close contact with and most of the time are personal friends of the legislators. According to Mr. Hauberg, this motion passed the Senate but was defeated in the House, and I want to ask that this body go on record as recommending to the individual members of this body that they contact and recommend to their various representatives the re-annotation, re-codification and re-publication of our code according to Mr. Stevens, and I make that as an amendment to the resolution.

MR. STEVENS: I will accept that. Any help this body can give toward getting this through will certainly be splendid.

MR. EARL T. THOMAS: I am highly in favor of re-annotation. A ten year cycle has moved around, but we are going to run into the same proposition that the New York lawyers have—they have thirty-five volumes. However, I think it is necessary that we have a recodification—that would be most economical for Mississippi, and certainly an industrious lawyer could keep it up to date.

MR. STEVENS: There is not much comparison between New York and Mississippi. New York is more comparable to congress—it is an empire within itself. The details of the work would have to be left to the legislature and the commissioners, and I am sure we could get a commission which would take care of the work.

MR. EATON: Do you know what the cost is of the Alabama code?

THE CHAIR: $67.50, but ours would be half that size.

MR. EATON: Would it be $40.00?

THE CHAIR: I would not testify to that.

MR. EATON: I doubt the advisability of including in the resolution that part which calls for a multiple volume revision of the Code. I think it we confine ourselves to a resolution asking for a re-codification and revision of our laws without advising multiple volumes, it would be better, because when we get into multiple volumes we are getting into larger cost. I offer an amendment that that portion of the resolution which calls for multiple volumes of the Code be stricken, without affecting the rest of the resolution.

Mr. Eaton's motion to amend was lost, and the original motion passed.

The Chairman introduced Mr. Hugh Clayton, who presented the following new members of the Junior Bar who were attending the meeting: Louis Alford, Phineas Stevens, William A. Huff, Stanny Sanders, Marvin Williams, Charles Traylor, Billy H. Quin, James Frinch, J. D. Bennett, and Arlington Jones.

Chairman Ethridge then introduced the speaker of the evening, Mr. Hugh Clegg, Assistant Director of the Federal Bureau of Investigation, a native Mississippian. Mr. Clegg's address follows.

THE F. B. I. AND NATIONAL DEFENSE

HUGH N. CLEGG

I am particularly happy to be here in Mississippi, particularly happy, in fact, to be in this meeting. I am glad that I can come as an humble representative of the Federal Bureau of Investigation, whose director is the Honorable J. Edgar Hoover, whom I have the pleasure to represent and from whom I bring you greetings.

We of the F. B. I. are charged with many and varied duties today, not only of law enforcement but of national defense. We take a great deal of courage from the fact that those who are learned in the law, those who are young and vigorous in that particular profession, are interested in the work that we are doing. We take courage from the fact and we salute you as our allies in our joint undertaking, for you, too, help maintain and support the majesty and the dignity of the law. We recognize the arduous and varied duties which are ours. We turn to the law profession for our own membership for the most part.

This is encouraging to us retrospectively, because looking back through the pages of history, we see it has not always been thus. When the world was emerging from chaos, from black night, and the weak were sat upon, it was the established fact that stubbornness and power of resistance were the important and dominant factors: the weak to the wall, only the strong shall survive. That seemed to be the code upon which

was predicated the so-called administration of justice of the day. And it is regrettable that present world history finds us again sharpening our claws, lengthening our teeth, preparing again in America to show that although peace-loving, we are not weak, preparing so that if humanly possible we might avoid a bloody conflict. We might say that the fundamentals of the world today are the A B C D's—represented by such words as arms, armament, air-raids, belligerents, bombs bursting, battleships, children crying, crisis, cemetery, destruction, despair, disease, death and doom. Each of these, however, are but outward evidence of the political conditions in the world, indicating that the toxic poison of totalitarianism has crept upon the body politic of our nation. Each of these indicates a toxic condition; indicates that the world, in fact, is sick. And we, as lawyers, representing the majesty and the dignity of the law, as outstanding citizens in our respective communities, might look upon ourselves perhaps as health-bringing cells to each of our communities throughout the state and nation, trying to re-vitalize this democracy that we talk so much about and that we are trying so hard to save. What would these health bringing cells undertake to do? Certainly we, as lawyers, individual cells in our community, might undertake to teach Americanism, not only in schools but in our homes and in our daily walks and practices of life.

We certainly should be tolerant of people of foreign names, tolerant of foreign groups, but not tolerant for one moment of any ism, facism, communism or any other type of un-Americanism.

It seems that we should think seriously about this liberty which is ours. We speak of saving our democracy or protecting our liberty, and we speak too often of it in the abstract, not thinking seriously of the liberties which we enjoy. We should bear in mind always that unblemished liberty is not identical with unbridled license. There is no license given to a man to go about enjoying his unrestrained and unbounded liberty so that it interferes or conflicts seriously with the rest of the world or with the majority of his neighbors.

Certainly we should protect that democracy about which we speak. Protect our democracy, I should say, by one method. Undertake to inculcate into the foreign-born element in our respective communities a desire to follow and appreciate our American way of living, avoiding crying about the times and procedure and war domination. But try to eliminate and avoid every possibility of the vigilante spirit contrary to the existence of your fundamental concept of legal procedure and practice. Recognize that under the duly constituted authorities established by our constitution and laws there must be authority for carrying out the functions of state. Vigilante groups have no place in America; they have no place in a democracy such as ours is today.

We should undertake, just as your previous committees undertook to purge your profession, to eliminate the parasites in our communities. Eliminate them when they are criminal, but eliminate them by legal, duly constituted, process of law, reporting them, if their activities are unAmeri-

can, to the nearest representative of the F. B. I. or to your local police or some duly constituted legal authority.

We should also undertake, as health giving cells in our respective communities, to report promptly and to urge our citizens to report promptly every evidence of espionage, subversive or other non-American activities to the nearest representative of the F. B. I.

In order to assist in that particular direction, Mr. Hoover has recently established in Jackson an F. B. I. office covering Mississippi. I hope that any of you who have occasion to go to Jackson or who live there will at an early date call at that office, become personally acquainted with the facilities it has at its command. That office represent not just this state but a tie-up with fifty-four other offices located throughout continental United States, Puerto Rico, Alaska and Hawaii. We shall be glad to have you do that; we shall be glad to have you feel that this is your F. B. I. office in Mississippi so that you can report such matters directly and promptly.

There should be no intermediary, nor any intermediary group, which would undertake to evaluate any act of espionage or subversive activities, for the reports would be delayed in reaching the proper authorities.

They cannot properly evaluate material unless their organization is nation-wide in scope. We have the only one of that system.

Furthermore, we feel that by your immediately directing to the legally constituted authority, set for that purpose, you then free your conscience and mind of the responsibility, and you will become accustomed to lean strongly upon that department of the law which is trying to preserve those functions of law enforcement and which is pledged to protect national defense.

What happens when you report a possible spy or a possible espionage or sabotage agency to a representative of the F. B. I.? I should like to explain very briefly.

In Washington, the President of the United States, on September 6, 1939, designated the F. B. I. as a central clearing house, coordination agency, in all matters of national defense involving subversive activities. If within the army or navy, those matters are handled by the Intelligence Division of the Army or Navy, respectively. Otherwise, it is the F. B. I.

In order to effect the proper coordination, there exist at Washington the offices of directors of F. B. I., Navy Intelligence and Military Intelligence. Those meet together, plan operations, establish policies and focus their attention upon the major projects and give it their personal supervision. In order to extend their coordinating activities through the United States, the F. B. I. has been established as, and is called today, the Law Enforcement Mobilization Plan for National Defense.

By that means they have already mobilized in the United States more than 200,000 law-enforcement officers who are at work. The head of

every law-enforcing agency meets with a group of his brother officers under the supervision of the F. B. I. There were more than 9,000 chiefs of police present the past quarter, representing 200,000 police in the United States. By means of those meetings there has been developed a coordination program or exchange of ideas whereby your complaint can receive prompt and proper attention. These officers have been given training in exactly what to do, and there has been established in each large community a splendid group of trained men, cooperating closely with the F.B.I. in this mobilization plan.

So, in spite of the fact that in Mississippi in 1940 there were 3,781 complaints representing espionage, sabotage and subversive acts, we handle complaints rapidly today as they come in—most of them without any foundation in fact for their existence. When any public-spirited American citizen thinks that he has a just complaint to make, he knows that that complaint will be given prompt attention.

Mr. Hoover has already gone to the President, not to say that we are ready, but to say that the law enforcement officers are at work protecting our internal security and our national defense.

The President also called upon the local officers of the United States themselves to report promptly any fact or any case or any suspicious activity to the F.B.I. That would seem perhaps a rather strange custom. It might seem to you an unnecessary procedure. Let me explain just why it is necessary.

About eight weeks ago in a little midwestern town in Illinois, a traffic officer arrested a speeding motorist. He did his job efficiently. He carried the motorist to the police headquarters, and he was tried on a charge of speeding. He paid his fine of $37.50, including costs, went back to his car, with a smirk on his face, and went on his way. What that officer did not know was that that speeding motorist was a foreign spy. What he did not know was that he had some blue prints and maps in that automobile of a special weapon manufactured for the Navy Department. What that officer did not know was that just half a block away, in another automobile, were two special agents of the F.B.I. who had been trailing him from the Atlantic, who noticed and reported every contact made, who saw every meeting with co-conspirators, and who saw him deliver to a foreign agent in San Francisco these alleged secret prints. We traced also the forwarding of these prints in San Francisco back to a central negotiating office in New York. We had information of the funds coming from the foreign country, how he received them in the mail, his confederates, and the work that they were doing. If that officer had found the blue prints in the car, the speeding motorist would probably have been sentenced to a year and a day or probably three years in the penitentiary: then he would have been out of the way, but replacing him at a very early date would have been two or three espionage agents, whose names would not have been known.

In England they say better the devil you know than the devil you do not know. They follow now, and they followed before the War exactly

the same policy which we follow of keeping under constant watch and surveillance those foreign agents in this country who are seeking to use their influence to undermine the welfare of our country.

It is not just a local problem. Perhaps a man arrested in Sacramento today may be the identical person who was released in Gulfport two weeks ago. Unless there is a central clearing house, coordinating the activities of all law-enforcement in Washington, there will, of course, be no successful effort to counteract espionage, sabotage, and subversive activities in the United States.

I am glad to report to you that there has not been one single bit of evidence of any sabotage which has been inspired by any foreign country in the United States in the past year. In fact, during the past year, there were fewer fires and explosions in factories than in the preceding year, and fewer in the preceding year than in the year before that, in spite of the fact that there has been a tremendous amount of new machinery and new and unskilled labor turned loose upon that machinery. Of course, there has been actual subversion but none of it has been traced and none of it has been identified. There has been no likely evidence of the fact that any of the subversion is tied up in any way with any foreign activity or inspiration. One of the reasons is that a plant-survey program was begun several months ago where the War and Navy Department had contracts for munitions and airplanes. They turned over a list of the plants to the F.B.I. for study, some of them for weeks and some for a matter of days only. Every likelihood of fire or explosion or other hazard that might interfere with the routine schedule and continuous production of war material were carefully noted and recommendations made for their improvement.

We believe that particular program has been largely responsible for the comparatively uninterrupted program of production, so far as the sabotage is concerned.

In one plant engaged in the manufacture of secret airplane equipment, a special agent called, and he was told that in the files there was a specimen and blue print of a device that was really a secret unknown to most foreign governments. The blue prints were kept in a vault, three sides of which were concrete reinforced by steel. The president of the plant escorted the special agent to the vault to see how it was built, and he was so proud of it. However, after two days of research and examination, it was found that on the fourth side of the vault, the back side, there was a window: all you had to do was to kick it out and help yourself. He lived too close to the window to see it.

The agent went to another place. He saw a man in charge of the crew. He inquired of the foreman and he did not know who the man was; he inquired of the superintendent and he did not know who he was, and when he went to the timekeeper, he found that the man had gone to work the day before. He did not know anything of his previous experience, or whether he was, in fact, a citizen.

In another plant it was found that a worker there had been released two months before from the state insane institution.

In still another place it was found that shavings had been soaked in oil so that a lighted match from one cigarette might have blown up the entire plant.

Such carelessness as that on the part of industry has awakened insurance companies, has awakened factory owners and factory managers to the necessity of maintaining a constant surveillance, and so far, during the present crisis, the damage from sabotage has been clearly less than that during a similar period of crisis prior to the last World War.

When these reports come to the F.B.I. for investigation, they are considered by trained men. They, too, are lawyers for the most part. A few of them are expert accountants who have had three years practical accounting experience. After being selected and investigated and examined, they are trained, and trained thoroughly, in the job that they are going to have to do in the future. Then they go out to do their daily work. They do the routine work with a definite knowledge of the obligation and responsibility that you, the people of the country, have placed upon them; with a definite knowledge as to how they must do that work.

Augmenting their activities is the department for detection of criminals by finger prints—the largest in the world. In England there are 600,000 finger prints of arrested persons. Whether this is a matter about which we should boast or feel ashamed is a matter of conjecture. In Washington they have more than 21,000,000 finger prints, most of which represent the finger prints of arrested persons. On each card are ten finger prints, 210,000,000 individual finger prints, no two of which have ever been found identical. Twins have not even identical finger prints.

What is the significance of these facts? Suppose an alleged sabotage agent is arrested in New York. He could give a fictitious name, a fictitious story, but from the 20,000,000 other cards, in less than five minutes, it would be possible to tell whether he had a previous record. That is happening in approximately 21,000 new cases every day. About 58% are found to be the finger prints of persons who already have finger prints in this file.

As a further effort to strengthen this first line of defense in our country, Mr. Hoover sent a man to England to study the national defense problem there. He found that the morale in England was just as high as it has been reported. He found that there has been no foreign-inspired sabotage in England because the army forces were ahead of their espionage and sabotage forces.

One little case when we were there actually happened. A man walked into a bar, a public tavern, and asked for a whiskey and soda. He had attended school in England for many years and spoke perfect English. The bartender said that he could not do that because it was 3:15 in the afternoon and public taverns always close from 2:30 to 5:30. They always

have. It is a matter of tradition, on which the English rely. The man said O.K. Although that man spoke perfect English, the bartender called the police. They just do not ask for a drink at 3:15 in England; they have always closed the taverns from 2:30 to 5:30. We were there December 10th when they hung two spies; one of them was this spy who had called for a drink at the tavern.

The public is awake to any unusual happening, to any unusual circumstance, and the police turned this spy over to the authorities who found in the conspirator's possession a small short-wave radio set with which they intended to communicate to Germany findings which they had. That spy was apprehended and executed because a public-spirited citizen reported a man who asked for a drink at 3:15 instead of 5:45!

There is strong necessity in the United States, if the F.B.I. and your officers of the army and navy are to do their maximum best job, that the public be generally alert in reporting any information to their nearest F.B.I. office. In Washington there is the largest laboratory, given over to law enforcement and national defense, in the world today.

Take a single piece of paper, manufactured in all innocence, sold over the counter, purchased by an espionage agent. He writes on that paper a communication, some secret message. They can place that paper in a device and measure its thickness accurately, determine the elements of which it is composed, trace it to the seller and to the purchaser. They can place it under ultra-violet rays and read the secret message. The message will be cast almost like a Neon sign on the street. That is just one of the many things that can be done with a piece of paper!

They identified the bullet that was fired from a gun of a sabotage or espionage agent just a short time ago. Just a few weeks ago in South Dakota a bridge game was in progress on the fourth of July. Suddenly a woman screamed and a stream of blood came down her arm. She had been shot. They searched the place and found no suspect. They knew of no one who had a motive for harming the lady. The police searched very carefully for the revolver, and further tried to determine a reason for the crime. An expert in ballistics will tell you that a gun will leave a definite mark on every bullet that it discharges. They had that bullet, but they did not have the gun.

Eight months before, in Ohio, a man, at the point of a gun, had been ordered to turn over his cash and, upon resisting, was killed. The police removed that bullet very carefully from the body of the deceased and held it for eight months, hoping that it would help them find the suspect and in his possession the gun which had fired the bullet, but they found no suspect. They forwarded that bullet to the laboratory in Washington. Within four hours time, the F.B.I. developed the fact that the same weapon that had been used to shoot the woman at the bridge table was the same weapon that had committed the murder in Ohio. The man had gone back to his home in South Dakota for the 4th of July. He went to the fair grounds and took one of these commercial airplane rides. He was a little inebriated, and decided that he would shoot his gun for the

4th of July celebration. The noise of the plane motor drowned the noise of the explosion of the gun. The bullet came down from the plane and struck the woman on the shoulder. He was subsequently arrested, convicted and sentenced to life imprisonment for having committed a murder in Ohio in a town more than 1,000 miles away.

Thus you can see the necessity for a central clearing house dealing with information about the subversive activities in our country and equipped with an ample staff to meet the needs.

We are proud to salute you as our allies, you, too, who are a help to us, and we hope to be helpful to you in maintaining the majesty and dignity of the law and in maintaining the security of this democracy that is ours.

We need the assistance of you professional men and of the public at large, whether the battles be in the battle field or in the homes, on sea or land, we are in this fight to win, and we shall win.

The Chairman introduced Mr. John W. Wade, Chairman of the Code Committee, to present the report of that committee. The report follows.

REPORT OF CODE COMMITTEE

The Legislature not having met since the last meeting of the Junior Bar Section, this committee has nothing to report on past recommendations which have been adopted by the Junior Bar Section. It is understood by this committee that all of these recommendations are carried forward and will be presented to the Legislature by the Legislative Committee at the appropriate time.

The committee has the following specific recommendations to make:

I

At the present time, the Code makes no provision for annulment of marriages. Section 1414 lists indiscriminately as causes for divorce grounds for annulment and grounds for divorce. This confusion creates many serious difficulties, and the committee recommends the repeal of this section and the enactment of the following three sections:

1. All bigamous, incestuous or miscegenatious marriages are void without the necessity of a decree, but a decree of nullity may be obtained at the suit of either party.

2. In the absence of ratification, a marriage may be annulled for any one of the following causes existing at the time of the marriage ceremony:

(a) Incurable impotency.

(b) Insanity of either or both parties. Action in behalf of an insane spouse may be brought by guardian, or in case the spouse has died before there is a reasonable time for appointment of a guardian and bringing of

suit, by any relative who would have inherited had the spouse been single provided suit be brought within six months after the death.

(c) Non-age (less than 17 years for the male and less than 15 years for the female) of the party bringing suit. Suit must be brought for this cause within one year after the date of the marriage.

(d) Failure to comply with the five-day period of delay as required by Section 2363. Suit for this cause may be brought at any time within one month after the marriage, but not thereafter.

(e) Fraud or duress imposed upon the party bringing suit.

(f) Pregnancy of the wife by another person.

(g) Lack of contractural consent due to mistake, drunkenness or other similar cause.

3. Divorce from the bonds of matrimony may be decreed to the injured party for any of the following causes:

(a) Adultery.

(b) Being sentenced to any penitentiary and not pardoned before being sent there.

(c) Willful, continued and obstinate desertion for the space of one year.

(d) Habitual drunkenness.

(e) Habitual and excessive use of opium, morphine, or other like drug.

(f) Habitual cruel and inhuman treatment.

(g) Incurable insanity. But no divorce shall be granted upon this ground unless the insane party shall have been under regular treatment for insanity and causes thereof, confined in an institution for the insane for a period of at least three years immediately preceding the commencement of action. No divorce shall be granted because of insanity until after a thorough examination of such insane person by three physicians who are recognized authorities on mental diseases, one of which physicians shall be a superintendent of a State *or federal* hospital for the insane, and the other two physicians to be appointed by the court before whom the action is pending, all of whom shall agree that such insane person is incurable; provided, further, that in granting a divorce upon this ground, notice of the pendency of the action shall be served in such manner as the court may direct, upon the nearest blood relative and guardian of such insane person, and the superintendent of the institution in which he is confined. Such relative or guardian and superintendent of the institution shall be entitled to appear and be heard upon any and all issues. The status of the parties as to the support and maintenance of the insane person shall not be altered in any way by the granting of the divorce.

However, a decree of divorce on the ground of incurable insanity, shall not abridge or affect the right of the insane person to inherit, and before any such decree is granted, the complainant shall enter into bond to be approved by the court, in such an amount as the court may think just and proper, conditioned for the care and keeping of such insane person during the remainder of his or her natural life, unless such insane person has a sufficient estate in his or her own right for such purpose.

A study of Section 1414 in its amended form as it appears in the 1938 Supplement will show that there are comparatively few changes ex-

cept in the separation of the causes into three groups. In Section 2 (on annulment), there are added one or two grounds for which annulment might be granted at common law. Principal changes are in subsections (b), (c), (d), (e) and (g). In Section 3 (g), a slight change has been made by the addition of the two words in italics.

Further changes in the code chapter on Divorce (largely required by the separate provision for decrees of annulment), are recommended as follows:

For the first sentence in Section 1422, there should be substituted the following, which should be enacted as a separate section:

> 4. The issue of a void marriage or a marriage which has been annulled or dissolved by a decree of divorce is legitimate, whether the marriage be declared void because of a prior existing marriage or not. The issue of a miscegenatious marriage is expressly excepted from this section.

The rest of Section 1422 (dealing with an order prohibiting an adulterer from remarrying), would remain in the section in substantially its present form.

Corresponding to Section 1421, dealing with custody of children and alimony in cases of divorce, the following two sections should be enacted for cases of annulment:

> 5. When an annulment shall be decreed or a marriage declared void, the chancery court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just make all orders touching the care, custody and maintenance of the children of the marriage; and the court may, afterwards, on petition, change the decree and make from time to time such new decree as the case may require.
>
> 6. When an annulment shall be decreed, the court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just, make all orders touching the maintenance and alimony of the wife, or any allowance to be made to her, and may, if need be, require sureties for the payment of the sum so allowed; and the court may afterwards, on petition, change the decree, and make from time to time such new decrees as the case may require.

Section 1420 should be amended so as to apply also to annulment proceedings, and would then read:

> 1420. The proceedings to obtain a divorce *or an annulment* shall not be heard or considered nor a decree of divorce *or annulment* entered except in open court. . . ."

The words in italics are added. The rest of the section would not be changed.

A detailed treatment of the need for the changes in the present statute and of the reasons for these particular changes will be found in

a Note in 12 *Mississippi Law Journal* 464 (May, 1940). No attempt will here be made to repeat the discussion which will be found in this Note.

II

The Mississippi statutes fail to make any provision for cases where a ward dies during the course of a guardianship proceeding. Naturally the guardianship terminates at such time, and normally the estate of the deceased ward would then be administered, with the guardian turning the assets of the estate over to the administrator. It is thought, however, that there is a need for special provisions to cover the peculiar situation which exists in case of death of the ward under guardianship.

It has been the policy of our laws to make special provision for small estates. This is indicated by Code Sections 1751-53 (covering wages in amounts less than $300 due decedent at time of his death), and Code Section 1670 (dispensing with newspaper publication of notice to creditors in estates under $500); and a similar policy has been manifested in guardianship proceedings by Code Section 1892, as amended by chapter 54 of the Acts of the Extraordinary Session of 1938, which provides that a guardianship may be terminated when the assets are less than $300 with no prospect of further income. Separate provision for small estates is wise, to keep them from being dissipated by administrative costs. This is particularly true in connection with the estate of a deceased ward, since there will already have been an inventory, and probably notice to creditors, payment of outstanding debts and regular accountings, and the affairs of the estate are all in order and in the hands of a bonded and reliable individual.

The committee therefore recommends the enactment of the following section:

> 1. On the death of the ward a guardianship shall terminate; and if the assets of the guardianship estate at that time amount to less than $300, administration of the estate shall not be necessary, and the court may order the guardian to distribute the assets directly to the heirs in the proportions provided by statute or by the ward's will.

The committee feels that in the case of estates larger than $300 the regular administration procedure should be retained. However, it is felt that on the death of the ward the guardian is really a party "interested" in his estate; that all the affairs of the estate are then in the guardian's hands, and that he is the person best acquainted with the estate and best able to handle it; and that often the ends of justice and the best interests of the estate would be better served if the guardian were able to apply for and secure letters of administration upon the estate. It is felt that the guardian should be given such standing under law as would enable him to make application for letters of administration upon an equal footing with the most favored other person, but that the rights of heirs and other interested parties to act as administrator should not be defeated or diminished.

The committee therefore recommends the enactment of a second section to read:

> 2. When a ward, while under guardianship, dies either intestate or testate but without naming an executor, the guardian may, if the estate is subject to administration in the county where the guardianship was instituted, apply for letters of administration or appointment as executor in such county. If any other person who is entitled to apply for letters of administration, or appointment as executor, shall make such application or contest the guardian's application, then it shall be in the discretion of the court to determine and make such order and appointment as will best serve and protect the interests of the estate.

III

Section 64 of the Code, concerning appeals from a justice of the peace court in civil cases, sets a time limit of 10 days. Section 68, providing for appeals in criminal cases, contains no time limit at all. The committee feels that there should be some limit of time during which the appeal might be taken. It first considered recommending a 10-day period as in civil cases but finally decided that there were valid reasons for a longer period of time in criminal cases. Six months was the time finally agreed upon. It is therefore recommended that Section 68 of the Code be amended so as to read as follows:

> 68. APPEALS IN CRIMINAL CASES—BOND ON APPEAL, LIQUOR LAW VIOLATIONS. In all cases of conviction of a criminal offense against the laws of the state by the judgment of a justice of the peace, or by the mayor or police justice of a city, town or village, for the violation of an ordinance thereof, an appeal may be taken to the circuit court of the county which shall stay the judgment appealed from, *such appeal to be perfected within six months of the rendition of the judgment of conviction appealed from;* and the appellant if sentenced to imprisonment for an offense or to stand committed until his fine and costs shall be paid. . . ."

The rest of the section will remain unchanged. The new matter is in italics.

IV

Section 3348 of the Code is the special Statute of Frauds for trusts. It provides that a declaration of trust shall be "utterly void" if it is not in writing; and then adds that it must be acknowledged and recorded and that it "shall only take effect from the time it is so lodged for record." The Supreme Court has construed this second provision to mean that if a trust instrument is not properly acknowledged and lodged for record, it can have no effect even between the immediate parties. *Board of Trustees M. E. Church South v. Odom,* 100 Miss. 64, 56 So. 314 (1911). A similar provision in Oklahoma was held inapplicable to the immediate parties [*Kimberly v. Cissna,* 161 Okla. 17, 16 P. (2d) 1090 (1932)]; and there is at least one case in Mississippi in which the requirement of this section was not considered [*Morgan v. Haywood,* 115 Miss. 354, 76 So.

262 (1917)]. In order to be effective against third parties a trust instrument should be properly recorded, but as to the immediate parties to the instrument it would appear that the writing is sufficient and that the recording serves no significant purpose. It seems very likely that the section was awkwardly phrased in an attempt to reach the result attained by the regular recording statutes (Secs. 2146-48). The doctrine of the *Odom* case is unfortunate in application to ordinary declarations of trust; it would be far more so if applied to deeds of trust given for security purposes, as may possibly be done. The committee therefore recommends that Section 3348 be amended to make it conform to the provisions of the recording statutes and to read as follows:

> 3348. TRUSTS AND CONFIDENCE. Hereafter all declarations or creations of trusts or confidence of or in any land shall be made and manifested by writing, signed by the party who declares or creates such trust, or by his last will, in writing, or else they shall be utterly void; and every writing declaring or creating a trust shall take effect as to all subsequent purchasers for a valuable consideration without notice, and as to all creditors, only from the time it is acknowledged or proved as other writings, and lodged with the clerk of the chancery court of the proper county to be recorded; but where any trust shall arise or result, by implication of law, out of a conveyance of land, such trust or confidence shall be of the like force and effect the same as it would have been if this statute had not been passed.

Section 3349, dealing with assignment of trusts requires the same amendments. In addition, this section does not provide that it applies only to land, though it obviously was passed as a part of the same act as Section 3348 and was intended to have the same application. It is therefore recommended that Section 3349 be amended to read as follows:

> 3349. ASSIGNMENT OF TRUSTS. All grants, assignments, or transfers of any trust or confidence of or in any land shall likewise be in writing, signed by the party granting or assigning the same, or by last will and testament, or else they shall likewise be utterly void; and such grant or assignment shall take effect as to all subsequent purchasers for a valuable consideration without notice, and as to all creditors, only from the time it is lodged with the clerk for record.

V

Section 3551 of the Code provides for express revocation of wills, and then it and Section 3552 make provision for children born after the making of a will and therefore pretermitted. Distinctions are drawn between cases where there were already some children born at the time of the making of the will and cases where there were none at the time, and between children born after the making of the will but before the death of the testator and posthumous children. The provision in Section 3551 for children born after the making of the will when there were no children at the time the will was made, is so confusing that it is impossible to determine with any degree of certainty the condition of the title during the

period between the death of the testator and the time when the child reaches the age of 21 or marries. No reason is seen for the making of all of these distinctions, and the confusing provisions can easily be simplified. The committee therefore recommends that Section 3551 be amended so as to provide only for express revocations and that Section 3552 be amended so as to provide a uniform rule for all children born after the making of a will. As so amended, the sections would read as follows:

> 3551. REVOCATIONS. A devise so made, or any clause thereof, shall not be revocable but by the testator or testatrix destroying, canceling, or obliterating the same, or causing it to be done in his or her presence, or by subsequent will, codicil, or declaration, in writing, made and executed.
>
> 3552. CHILDREN BORN AFTER MAKING OF THE WILL. If a child is born to a testator or testatrix after the execution of the last will and testament of the testator or testatrix, either during the lifetime or after the death of the testator or testatrix, and the child is neither provided for by settlement nor provided for or mentioned in any way in such will, the child shall succeed to the same share of such parent's real and personal estate to which the child would have been entitled if the parent had died intestate, and shall be entitled to recover such share from the devisees and legatees, in proportion to and out of the parts devised and bequeathed to them by the will.

VI

The committee recommends the enactment of the following two sections on adoptions:

> 1. Whenever a person has been, or is hereafter legally adopted, with full right of inheritance from his or her adoptive parent or parents, the adopted person's property, at death, shall descend as if the adopted person were the blood child of the adoptive parent or parents.
>
> 2. Whenever a person has been, or is hereafter legally adopted under the laws of any other state, the District of Columbia, or possessions of the United States, and given the full right of inheritance under such adoption proceeding, that person shall be entitled to inherit both real and personal property in the State of Mississippi as fully as if the adoption had taken place in the State of Mississippi.

VII

It sometimes happens that a judgment affecting the titles to certain property is enrolled on the same day an examination of the title to that property is made by an attorney, and if the examination is made prior to the enrolling of the judgment, the attorney's certificate will not disclose the lien of the judgment. The question will then arise as to whether the attorney missed the judgment. The records should affirmatively show whether the judgment was on the roll at the hour and minute the attorney's certificate is dated. The committee therefore recommends that Section 610 of the Code be amended so that the fifth column in the caption

required for the judgment roll will read: "Date, Hour and Minute of Enrollment." It also recommends that the second sentence of this section be amended so as to read:

> "And the clerk shall, within twenty days after the adjournment of each term of the court, enroll all final judgments rendered at said term, in the order in which they were entered on the minutes, by entering on the judgment roll, under the proper letter or letters of the alphabet, the names of each and every defendant to said judgment, the amount of such judgment, the date of its rendition, the county and the court in which rendered, the date, *hour and minute* of enrollment, and the names of the plaintiff or plaintiffs."

The words in italics are added.

VIII

Last year's committee suggested that the committee this year give consideration to a statute allowing contribution between joint tort-feasors. The committee has considered this topic at some length and while it believes that a statute should be enacted for this purpose it has been unable to agree on the exact provisions of this statute. The committee therefore suggests that this subject be again considered next year and that a further attempt be made to draft a satisfactory statute.

There are several other topics considered by the committee on which it does not now desire to make recommendations. Some of these will be presented to next year's committee for further consideration by it.

The committee concludes with the recommendation that it be continued with a new personnel.

Respectfully submitted,

John W. Wade, Chairman.

On motion of Mr. Wade, the separate items were passed. On motion of Mr. Mize, the recommendation concerning code section 1420 in the first item was amended so as to permit the chancellor to hold divorce and annulment proceedings in his chambers at his discretion.

A motion of Mr. Arlington Jones that a committee be appointed to study the relation of our local state laws to the soldiers within the state was passed.

The Chair called for nominations for chairman of the Junior Bar Section for the ensuing year.

Mr. Webb Mize nominated Mr. David Cottrell.

Mr. George Neblett nominated Mr. J. Morgan Stevens, Jr., seconded by Mr. Junior O'Mara.

Mr. Rupert Ringold nominated Mr. Robert S. Newton.

Mr. David Cottrell asked that his nomination be withdrawn on the ground that Mr. Stevens, the vice-chairman, should be elevated to the office of chairman.

The vote by ballot showed 41 for Mr. Stevens and 10 for Mr. Newton, and Mr. Stevens was declared elected. He expressed his appreciation.

Nominations for vice-chairman were called. Mr. Eugene Thompson nominated Mr. Edmund Brunni. Mr. B. E. Eaton, Jr., nominated Mr. David Cottrell. Mr. Fred Berger was nominated by Mr. James Finch, but he withdrew in favor of Mr. Brunni.

The vote showed a tie of 24 votes each for Mr. Brunni and Mr. Cottrell. The chairman broke the tie by casting his ballot for Mr. Cottrell, and on motion of Mr. Brunni, the election was declared unanimous.

The members of the Section then divided into district meetings and elected the following members of the Executive Committee: Northern District—P. D. Holcomb, John W. Wade, and G. P. Cossar; Central District—George Woodliff, William Neville, and William A. Huff; Southern District—Robert Newton, Junior O'Mara, and Alfred Moore.

Adjournment.

MISSISSIPPI LAW JOURNAL

JOURNAL of the MISSISSIPPI STATE BAR

VOL. XIII SEPTEMBER, 1941 NO. 5

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Officers of Ole Miss Alumni

At the meeting of the Ole Miss Law Alumni held on June 26th, 1941, in Gulfport, Miss Catherine Bass of Hazlehurst, who so ably served as secretary during the past year, was elevated to the presidency; Judge Leon F. Hendrick of Jackson was elected vice-president, and Hon. D. W. Holmes of Hattiesburg was elected secretary.

Ladies Auxiliary to State Bar

On June 26, 1941, in Gulfport the wives and daughters of the Mississippi lawyers met and organized an Auxiliary to the Mississippi State Bar. Interesting talks were made by Mrs. J. L. Heiss of Gulfport on "The Jefferson Davis Shrine," and Mrs. Hanun Gardner of Gulfport on "The Early History of the Coast."

The following officers were elected to serve for 1941-42: Mrs. Ben H. McFarland, Aberdeen, President; Mrs. Ben Stevens, Hattiesburg, Vice-President; Mrs. Allen C. Thompson, Jackson, Secretary, and Mrs. John L. Heiss, Jr., Gulfport, Treasurer.

STATEMENT OF THE NEWLY ELECTED PRESIDENT OF THE MISSISSIPPI STATE BAR

To the Members of the Mississippi State Bar:

AT THE TIME OF THE MAKING OF THIS STATEMENT, NO DECLARATION OF WAR HAS BEEN MADE, NOR HAS ANY SOLDIER OPENLY ENGAGED IN ANY ACT OF WARFARE, YET BEFORE THE STATEMENT IS PUBLISHED IT IS POSSIBLE, EVEN VERY PROBABLE, THAT OUR GOVERNMENT WILL BE ENGAGED IN ACTIVE WARFARE.

Never, in the history of our Government, has it been threatened with such dangers as now. Democratic governments are indulgent and peace-loving governments, not possessed of the greed for conquest, or the thirst for blood. Their policies are those of peaceful negotiations and treaties. Their territorial policies have been those of purchase and not of conquest. Our Government has never fostered nor encouraged traitorous and treasonable organizations in any other country or government with the design to undermine and overthrow it. Our policy has been one of open negotiation, paraphrased, "Open Seas and Sailors' Rights." This principle is essential to the freedom of the government and its commerce at home and abroad, on land and on sea. For any foreign government or people to set up, foster and encourage traitorous, treasonable and conspiritous plans and organizations here in our country and on our soil, is of itself most infamous and treacherous, and persons in this country in either the private walks of life or our Legislative Halls, who belong to or participate in such treasonable, traitorous and conspiritous organizations, against the Government, are equally infamous in the eyes of the patriotic citizenship. The ultimate design of such is the overthrow of our Government and the conquest of our Country.

It is the earnest and patriotic desire and purpose of our Bar and Bench to foster patriotism and loyalty to law, order and country; to crush treason and conspiracy against our Government. It is time for vigorous action against these monsters, from within and from without our Country. We love America, her freedom and liberty. We respect our flag, the symbol of her institutions. It is with pardonable pride that I declare to you that the right hand of the lawyer has always carried high the torch of Liberty. Patrick Henry, who was a lawyer, proclaimed his love of liberty in the immortal words, "Give Me Liberty, Or Give Me Death." Not only have the lawyers been devout worshipers at the shrine of liberty, but the genius and patriotism of the legal profession is one of the diadems in the crown of liberty. The Declaration of Independence was written by the unerring hand of the lawyer, Thomas Jefferson. He too, was animated by the same spirit of freedom that inspired the soul of Patrick Henry. This instrument embodied the skill and genius which only the legal mind has, and it spoke forth to the world in thunderous tones, which still reverberate and resound, the independence, freedom and democracy of the United States of America. The United States of America, and the Western Hemisphere, North America, South America and Central America were

exposed to dangers of aggression and conquest by foreign countries, and to guard against these common dangers the skill, ingenuity and patriotism of the lawyer again got into action and brought forth what is familiarly and historically known as The Monroe Doctrine, and James Monroe was the lawyer who produced it. That doctrine is today a bulwark of defense in the world war now raging between the democracies and the dictators of the world. A lawyer, Francis Hopkinson, born in Philadelphia, September 21, 1937, composed a secular song entitled "My Days Have Been So Wondrous Free," and that song was born of the spirit of freedom and liberty. The same lawyer, Francis Hopkinson, was one of the signers of the Declaration of Independence, and was the original designer of the Stars and Stripes, Old Glory, our flag, and he was the designer of the first Great Seal of the United States. Francis Scott Key, a lawyer, in 1814 wrote the words and music of "The Star-Spangled Banner," which was designated as the "National Anthem of the United States of America."

The same spirit of freedom and patriotism which inspired the lawyers then, still lives, and reigns and rules in the bosoms of the lawyers of this day, and we are dedicated to the work of defending, protecting and perpetuating this, our Land of Liberty and Freedom, with our very lives and fortunes, against all dictators, saboteurs, propagandists, conspirators and traitors, both from within and from without our borders. I recommend that our district associations have a series of meetings, with the program largely punctuated with patriotic songs and addresses, and that the lawyers give unreservedly of their time and talent to the rekindling of the fires of patriotism. I conclude with the solemn warning, "Remove Not the Ancient Land-marks Which Our Fathers Have Set."

ALEXANDER CURRIE, President,
Mississippi State Bar.

STATEMENT OF THE NEWLY ELECTED CHAIRMAN OF THE JUNIOR BAR SECTION

To the Members of the Mississippi State Bar:

Our State Bar has dealt kindly with the program of the Junior Bar Section, for while a few of its proposals have been rejected, the overwhelming majority of measures proposed have been approved by the Mississippi State Bar. We appreciate the kindly and laudatory remarks which have been expressed from time to time at the State Bar Conventions on the work of our Section, and we are encouraged.

The Junior Bar Section is a standing committee of the Mississippi State Bar, composed of all members under thirty-six years of age, and governed by an Executive Committee of thirteen members from the Junior Bar Section, two in an advisory capacity and the balance elected from the membership. The Executive Committee is authorized to appoint such sub-committees as it deems necessary. The resolution creating the

Junior Bar Section leaves almost unlimited its fields of activity outlined, yet its acts are safeguarded by the basic fact that it constitutes a standing committee whose actions are all submitted to the State Bar for approval or rejection.

During this year, we have the second meeting of our Legislature for the Johnson Administration. In 1940, the legislative program of the State Bar, as presented by the Junior Bar Section, met with remarkable success, and many needed statutory revisions and reforms were enacted. We now have an opportunity such as has not been presented before. The legislative program of the Junior Bar Section for the years 1939, 1940 and 1941, as approved by the State Bar, embraces twenty-four separate pending legislative items. This legislative program is the result of three years work of all of the committees of the Junior Bar Section, and I submit that at the second regular legislative session, an unusual opportunity is presented to obtain favorable consideration of our recommendations. At the 1940 meeting of the State Bar at Jackson, you voted your approval to continuing those legislative recommendations which had been introduced in the Legislature but failed of passage. The report of the 1939-40 Code Committee reviewed the legislative program which had been submitted in 1940, reported on those proposals which had been enacted, and you authorized re-submission of those proposals which had failed of enactment. We thus find ourselves possessed of a legislative program which has been carefully considered, which has been submitted, item by item, to the State Bar and approved by it, and which is ready for presentation to the Legislature in 1942.

I earnestly request every member of the State Bar to review this program with at least one of his Representatives or Senators prior to the convening of the 1942 Legislature, believing that if this is done we will be able to put our legislative program across with great ease and success. The legislative program is as follows:

Legislative Program of Junior Bar Section, as Approved by State Bar

The following are found in the August, 1939, issue of the Law Journal:

1. That Section (f) of Chapter 287, Laws, 1932, dealing with service of process on non-resident motorists, be amended to provide that the statutes specifically apply whether the non-resident is personally operating the car or is operating it through an agent, servant, employee, etc. Page 498, August, 1939 issue.

2. That Section 5169, of 1930 Code be repealed since it is unconstitutional. Page 499.

3. That plaintiff may amend his declaration without applying to the court, at any time before the defendant has made defense, the plaintiff to pay costs of furnishing amendment to defendants. Page 500.

4. That Section 354 and 355 of Code 1930 be amended so as to clarify the procedure for removal of disability of minority. Page 500.

5. That Chapter 272, Laws of 1938, should be revised. This is in connection with small claims of minors. Page 502.

6. That an amendment be made to the Highway Safety Patrol Bill providing for proper marking of dangerous curves and hills on highway, and penalties for violation of same. Page 503.

7. That Sections 1413 and 3566 be repealed and in their stead legislation be enacted dealing with inheritance by the slayer of the person slain. Page 504.

8. That Section 347, Code 1930, dealing with the making of final records in proceedings for the removal of disabilities of minors, be revised. Page 504.

9. That Section 4140, Code 1930, dealing with service of process on corporations doing business in State be revised and additional legislation in this regard be enacted. Page 505.

The following are found in the September, 1940, issue of the Law Journal:

10. That Section 536, Code 1930, be amended so as to provide for motion to strike a notice under the general issue. Pages 620 and 573, September, 1940, issue.

11. That Section 495, Code 1930, dealing with venue of actions generally be amended by adding: "Or in the county where the cause of action may occur or accrue except where otherwise provided." And that Section 363, Code 1930, dealing with venue of action in chancery court be amended. Page 620.

12. That Code Section 7336, Chapter 175, on "War Veterans" be amended, and that new sections dealing with how guardianships shall be conducted, their jurisdiction and control of property of ward, etc. be added. Pages 622; 630-633, 573.

The following are found in the May, 1941, issue of the Law Journal (see also Proceedings of 1941 Convention):

13. That Section 1414, Code 1930, dealing with divorce and annulments be amended. Pages 527-529, May, 1941, issue.

14. That enactment of statutes providing for cases where ward dies during the course of a guardianship proceeding be had. Pages 529-530.

15. That Section 68, Code 1930, dealing with appeals from Justice of the Peace courts in criminal cases be amended to provide the time within which bond must be filed. Page 531.

16. That Section 3348, Code 1930, which is the special Statute of Frauds for trusts, be amended with regard to the recording of declarations of trusts, and that Section 3349, dealing with assignment of trusts, be also amended. Page 532.

17. That Section 3551 with regard to revocation of wills and Section 3553 providing for children born after making of will be amended. Pages 532-533.

18. That Section 610 of Code of 1930 be amended so that fifth column in the caption required for the judgment roll will read: "Date, Hour and Minute of Enrollment." Page 533.

The following are found in the proceedings of the 1941 Convention:

19. That Section 1, Chapter 122, Laws 1932, be amended to prescribe the method of appointment of the members of the Board of Bar Admissions.

20. That Section 3, Chapter 122, Laws 1932, be amended with regard to requirements of admission of attorneys from other states to the Bar of Mississippi.

21. That Legislation be enacted to provide a Legislative Drafting Bureau.

22. That the present statutes governing cases in the Chancery Court be amended so as to make all cases filed in chancery court triable on thirty days' service of process, the same as cases are triable in the Circuit Court.

23. That Legislature be petitioned to contract for the publication of the Code of Mississippi in multiple volumes, under a contract whereby the Code would be supplemented by pocket parts, annotations, citations, etc., in order to be kept up to date.

Great interest has been exhibited in our proposal for a republication of the Code. I will ask the Executive Committee to give us a special subcommittee to work on this proposal, and I am sure that the Legislative Committee of the State Bar will do its share in carrying out not only this proposal relating to the Code, but also our entire legislative program.

If the members of the State Bar will only spend a few minutes each going over this program with their Representatives and Senators, it will be assured of success. Your officers and your Executive Committee, and your Legislative Committee and Legislative Drafting Committee, and all the past Chairmen of the Code Committees of the Junior Bar Section, pledge their active effort toward having this program favorably received and acted upon by the Legislature.

Registration of Members

Since the Junior Bar Section is composed of all members of the State Bar who are under thirty-six years of age, the Secretary finds some difficulty in making a complete and accurate roll of the Junior Bar members. Every member of the State Bar who is eligible for membership in the Junior Bar is requested to notify the Secretary by mail, giving age or date of birth, so that she can keep her roll more accurately and completely.

In conclusion, I wish to express my appreciation for the help and cooperation I am receiving, and I hope that all members of the State Bar, as well as the Junior Bar Section, will feel free to make suggestions from time to time. Without the active help of the members we cannot hope to accomplish our program.

J. M. STEVENS, JR., Chairman,
Junior Bar Section.

AUDIT OF ACCOUNTS AND FINANCE MISSISSIPPI STATE BAR

Report upon audit of accounts and financial records for the year ended May 30, 1941, including statement of receipts and disbursements with supporting schedules

DICK D. QUIN & COMPANY

ACCOUNTANTS AND AUDITORS

JACKSON, MISSISSIPPI

June 10, 1941

Board of Commissioners,
Mississippi State Bar,
Jackson, Mississippi.

Gentlemen:

In accordance with your instructions, we have audited the accounts and financial records of the Mississippi State Bar as maintained in the office of the Secretary-Treasurer for the year ended May 30, 1941. The scope of this audit embraced the verification of all recorded receipts and disbursements during the year and the verification of the unexpended balance on hand at May 30, 1941.

The results of our audit are presented in this report, which includes: (1) text of comments and explanatory detail; (2) statement of receipts and disbursements for the year ended May 30, 1941; (3) schedules supplementing the foregoing statement. A list of the statement and supplementary schedules making up a part of this report is presented on the sheet following page 3.

COMMENTS RESPECTING RECEIPTS AND DISBURSEMENTS

Exhibit A presents a statement of receipts and disbursements for the year ended May 30, 1941.

A summary of the receipts and disbursements for the fiscal year 1940-1941 and a comparison with a like summary of receipts and disbursements for the fiscal year 1939-40 are presented in the following table:

	1940-41	1939-40	Increase Decrease–
BALANCE ON HAND, MAY 31, 1940	$1,178.60	$1,811.59	$ 632.99–
RECEIPTS:			
Dues collected	6,825.00	5,595.00	1,230.00
Less: Excess of checks returned over amount collected	–	25.00	25.00–
Net dues collected	6,825.00	5,570.00	1,255.00

Miscellaneous receipts from Hinds County Bar	6.00	–	6.00
Total receipts	6,831.00	5,570.00	1,261.00
	8,009.60	7,381.59	628.01
DISBURSEMENTS:			
Secretary's salary	2,100.00	1,800.00	300.00
Office expense	834.94	926.68	91.74–
Annual convention expense	583.86	399.84	184.02
Commissioners' expenses	681.48	667.67	13.81
Mississippi Law Journal	2,000.00	2,000.00	–
Junior Bar Section	236.81	119.20	117.61
Committee expenses	184.00	79.37	104.63
Miscellaneous disbursements	179.67	210.23	30.56–
Total disbursements	6,800.76	6,202.99	597.77
BALANCE ON HAND, MAY 30, 1941	$1,208.84	$1,178.60	$ 30.24

An analysis of the dues collected during the fiscal year ended May 30, 1941, is presented in schedule A-1. This schedule shows the amount collected for each fiscal year. All receipts issued by your Secretary-Treasurer were verified by tracing amounts reflected thereon into the depository.

All cancelled checks covering disbursements were carefully examined and were found to be properly supported by vouchers. The balance of cash on hand at May 30, 1941, amounting to $1,208.84, was verified by direct communication with your depository.

A list of all delinquent members at May 30, 1941, is presented in schedule A-2. Returned checks held for redeposit, for which receipts have been issued, are reflected in schedule A-3. Although members whose checks have been returned unpaid are delinquent, and are so shown in schedule A-2, it nevertheless was deemed advisable to include as a part of this report a list of the members issuing these bad checks.

Returned checks of J. E. Eudy, F. C. Hathorn, Jr., and J. H. Brown, each in the amount of $5.00, and check of L. C. Bridges for $10.00 were written off as we were advised by your Secretary-Treasurer that correspondence with these members disclosed that they were not in active practice during the fiscal year for which their checks were given.

A review of the membership roll of the Mississippi State Bar for the current year revealed the following information:

Active members paying dues	1,188
Delinquent members	116
Exempt members	48
New members, exempt for one year	132
Members not in active practice	346
Total members on roll	1,830

Entries have been made in the journal under date of May 30, 1941, to bring the financial records into conformity with the statement of receipts and disbursements forming a part of this report.

Yours very truly,

DICK D. QUIN & COMPANY,
Certified Public Accountant.

MISSISSIPPI STATE BAR

List of Statements Contained in Report Upon Audit of Accounts and Financial Records, Year Ended May 30, 1941

Exhibit A—Statement of Receipts and Disbursements, Year Ended May 30, 1941.
Schedule A-1—Analysis of Net Dues Collected, Year Ended May 30, 1941.
Schedule A-2—Schedule of Delinquent Members at May 30, 1941.
Schedule A-3—Schedule of Returned Checks Held for Redeposit at May 30, 1941.

Exhibit A

MISSISSIPPI STATE BAR

Statement of Receipts and Disbursements, Year Ended May 30, 1941

BALANCE ON HAND, May 31, 1940		$1,178.60
RECEIPTS:		
Dues collected—schedule A-1	$6,825.00	
Miscellaneous receipts from Hinds County Bar	6.00	
Total receipts		6,831.00
		8,009.60
DISBURSEMENTS:		
Secretary's salary	2,100.00	
Office expense:		
Auditing	$ 75.00	
Bond premium	15.00	
Dues and subscriptions	13.20	
Exchange and bank charges	52.64	
Extra clerical help	41.50	
Postage and box rent	281.38	
Stationery, printing, and office supplies	229.01	
Telephone and telegraph	111.21	
Typewriter rent and repairs	16.00	
	834.94	
Annual convention expense	583.86	
Commissioners' expenses	681.48	
Mississippi Law Journal	2,000.00	
Junior Bar Section	236.81	

Committee expenses:			
Complaint Committee	10.00		
Delinquent Lawyers' Committee	109.25		
Investigating Committee	25.00		
Study Committee	39.75		
		184.00	
Miscellaneous expenses:			
District Bar Association meeting	46.20		
President's expenses	56.90		
Flowers for memorial services	9.57		
Cost of cabinet and card index	44.50		
Postage—for institute at University	22.50		
		179.67	
Total disbursements			6,800.76
BALANCE ON HAND, MAY 30, 1941			$1,208.84

SCHEDULE A-1

MISSISSIPPI STATE BAR

Analysis of Dues Collected, Year Ended May 30, 1941

Gross Receipts	No. of Members	1932-33	1933-34	1934-35	1935-36	1936-37	1937-38	1938-39	1939-40	1940-41	1941-42	Total
1932-33 dues—Nos. 1209-1210	2	$10.00										$ 10.00
1933-34 dues—Nos. 1140-1142	3		15.00									15.00
1934-35 dues—Nos. 1110-1113	4			20.00								20.00
1935-36 dues—Nos. 1095-1098	4				20.00							20.00
1936-37 dues—Nos. 1101-1109	9					45.00						45.00
1937-38 dues—Nos. 1083-1098	16						80.00					80.00
1938-39 dues—Nos. 1082-1120 (1 void)	38							190.00				190.00
1939-40 dues—Nos. 1066-1149	84								420.00			420.00
1940-41 dues—Nos. 17-1193	1,177									5,885.00		5,885.00
1941-42 dues—Nos. 1- 28	28										140.00	140.00
Total	1,365	$10.00	$15.00	$20.00	$20.00	$45.00	$80.00	$190.00	$420.00	$5,885.00	$140.00	$6,825.00

NOTE: The voided receipt was as follows:
1938-39 No. 1106

MISSISSIPPI STATE BAR DIRECTORY 1941-42

OFFICERS

Alexander Currie of Hattiesburg	President
Charles F. Engle of Natchez	First Vice-President
John C. Satterfield of Jackson	Second Vice-President
Mrs. Alice Nevels of Jackson	Secretary-Treasurer

COMMISSIONERS

First District	Ben H. McFarland
Second District	R. W. Thompson, Jr.
Third District	Hindman Doxey
Fourth District	Arthur Jordan
Fifth District	Rupert Ringold
Sixth District	Maxwell Bramlette
Seventh District	Leon F. Hendrick
Eighth District	Dees Stribling
Ninth District	Landman Teller
Tenth District	J. A. Riddell
Eleventh District	J. W. Bell, Jr.
Twelfth District	Quitman Ross
Thirteenth District	Homer Currie
Fourteenth District	Junior O'Mara
Fifteenth District	C. E. Gibson
Sixteenth District	J. E. Caradine
Seventeenth District	J. H. Caldwell

ACTIVE MEMBERS

Abernethy, H. B., Houston
Abernethy, Thos. G., Okolona
Abraham, Jake Louis, Port Gibson
Adam, C. B., Pass Christian
Adam, E. J., Jr., Pass Christian
Adams, B. C., Hattiesburg
Adams, Ben C., Jr., Grenada
Adams, Lawrence, Natchez
Adams, James Hermon, Raymond
Adams, J. J., Jr., Clarksdale
Adams, M. T., Tupelo
Adams, W. C., Corinth
Albritton, James S., Hattiesburg
Alcorn, W. A., Jr., Clarksdale
Alderman, J. E., Leakesville
Aldridge, John Edw., Winona
Alexander, H. Chalmers, Jackson
Alexander, James A., Jackson
Alexander, James A., Jr., Jackson
Alexander, Julian P., Jackson
Alexander, W. B., Jr., Cleveland
Alford, James Louis, McComb
Alford, J. M., Tylertown
Alford, Percy Knapp, Magnolia
Allen, B. B., Indianola
Allen, John F., Kosciusko
Allen, Joe Frank, Kosciusko
Allen, John Percy, Kosciusko
Allen, L. P., Jr., Fed. Trade Comm., Washington, D. C.
Allen, Percy W., Indianola
Allen, Ward, Rt. 6, Box 70, Fresno, Calif.
Alliston, Wiley T., Florence
Ames, Chas. F., Box 522, G.P.O., New York City, N. Y.
Amis, A. B., Jr., Newton
Amis, A. B., Sr., Meridian
Anderson, Cephus, Hattiesburg
Anderson, D. M., Newton
Anderson, D. M., Jr., Newton
Anderson, Fred A., Gloster
Anderson, John R., Tupelo
Anderson, R. B., Port Gibson
Anderson, S. V., Greenville
Anderson, W. D., Jackson
Anderson, W. H., Ripley
Andrews, Landon C., Oxford
Antoon, Edw. J., Greenwood
Armstrong, John T., Hazlehurst
Arrington, Fox, Monticello
Arrington, Jo Drake, Gulfport
Arrington, John H., Monticello
Arrington, R. O., Hazlehurst
Aultman, Bruce C., Hattiesburg
Austin, B. G., Jackson
Austin, H. L., Jackson
Avery, Ralph B., Jackson
Badendreer, Eleanore, Gulfport
Bacho, Fred, Biloxi
Backstrom, J. W., Leakesville
Backstrom, Oscar, Gulfport
Bacon, Wm. Arthur, Jackson
Baddly, Hugh M., Water Valley
Baker, B. H., Hattiesburg
Bailey, T. L., Meridian
Banks, Geo. H., Newton
Bankston, W. L., Tunica
Barbee, J. W., Hernando
Barbour, Jeptha F., Jr., Yazoo City
Barbour, J. S., Jackson
Barbour, J. F., Yazoo City
Barbour, Wm. H., Yazoo City
Barksdale, Henry, Jackson
Barlow, E. C., Brookhaven
Barnett, Arden, Jackson
Barnett, O. H., Jr., Carthage
Barnett, Ross R., Jackson
Barnett, Tom J., Carthage
Barrett, Pat M., Lexington
Bass, Catherine, Hazlehurst
Bass, R. Leon, Belzoni
Bates, Henry Grady, Liberty
Bates, Jean M., Starkville
Batson, W. C., Wiggins
Bauer, T. L., Natchez
Bayless, H. L., Jr., Bay Springs
Bean, George, Okolona
Beard, W. A., Jr., Laurel
Bearden, Wm. Ellis, Jr., Okolona
Becker, John Thomas, Jr., Jackson
Beckett, R. Capel, 135 E. 11th Place, Chicago, Ill.
Belk, Fred M., Holly Springs
Belk, Wm. D., Holly Springs
Bell, A. H., Greenwood
Bell, B. F., Starkville
Bell, James W., Jr., Tunica
Bell, Percy, Greenville
Bennett, John D., Jackson
Bennett, O. A., Carthage
Bennett, R. E., Meadville
Berger, C. Frederic, Port Gibson
Berman, Joseph E., Lexington
Bernreuter, Raymond G., Kosciusko
Berry, S. B., Hattiesburg
Bickerstaff, R. O., Gulfport
Biedenharn, James P., Vicksburg
Bilbo, Theo. G., Jackson
Bishop, R. J., Hattiesburg
Black, E. C., Marks
Black, Maurice R., Flora
Blair, W. A., c/o HOLC, Jackson
Blalock, James A., Jackson
Blissard, Tom L., Jackson
Bloomfield, Horace, Gulfport
Blount, James A., Charleston
Bogen, Edw. J., Greenville

Bolton, C. R., Tupelo
Bonelli, Albert M., Vicksburg
Booth, Richard B., Aberdeen
Boren, H. A., Tupelo
Bourdeaux, R. M., Meridian
Bouslog, M. P., Gulfport
Bowdre, P. H., Hernando
Bowling, Francis S., Jackson
Boydstun, R. W., Louisville
Boykin, Mack L., Vaiden
Boyles, J. B., Batesville
Bozeman, Albert S., Jr., Meridian
Bozeman, A. S., Meridian
Brackstone, Fernand D. (Army), Corinth
Braden, William, Jr., Natchez
Bradford, J. W., Itta Bena
Bradshaw, F. W., Jackson
Brady, T., Jr., Brookhaven
Brady, Thos. P., Brookhaven
Brady, Tullius, Brookhaven
Brame, Ollie D., Jackson
Bramlette, Maxwell, Woodville
Brandon, G. H., Natchez
Brandon, Gerard, Natchez
Brandon, J. M., Natchez
Brannon, Mary Sue, Aberdeen
Brantley, Z. A., Louisville
Branton, Wm. Coleman, Greenville
Bratton, C. A., Oxford
Bratton, Thos. S., Jackson
Breland, J. J., Sumner
Brett, M. D., Jackson
Brewer, Dan C., Clarksdale
Brewer, Earl, Jackson
Brewer, Ed. C., Clarksdale
Brewer, Norman C., Greenwood
Bridgforth, Allen, Yazoo City
Bridges, L. C., Purvis
Britt, Geo. Thomas, Jackson
Britton, E. H., Macon
Broach, Walker, Jr., Meridian
Broadus, A. Q., Purvis
Broadway, L. J., Meridian
Brocato, V. J., Clarksdale
Brock, Edmond R., 71 Conti St., Mobile
Brooks, Rodney, Clarksdale
Broom, Harmon W., Jackson
Broom, S. C., Jackson
Broom, Stewart C., Jr. (Army), Jackson
Broome, Willie M., Tylertown
Brown, A. L., Rolling Fork
Brown, Berry Davis, Greenwood
Brown, J. H., Fulton
Brown, James T., Jackson
Brown, Jos. E., Natchez
Brown, L. W., Starkville
Brown, M. D., DeKalb
Brownstein, Fred X., Rolling Fork
Bruce, Arthar, Greenwood
Brunini, Alexander J., Vicksburg
Brunini, Edmund L., Vicksburg
Brunini, John B., Vicksburg
Bryan, Harry M., Jackson
Bryant, Ray, Gulfport
Buchanan, Frank J., Jackson
Buchanan, Harry, Hattiesburg
Buchanan, James R., Laurel
Buckley, J. Emmett, Enterprise
Buckley, John L., Enterprise
Bullard, Wm. D., Pascagoula
Bullock, H. H., Brandon
Bullock, Mansard, Vicksburg
Buntin, R. R., Gulfport
Burdette, W. F., Richton
Burgin, D. A., Columbus
Burkett, John G., Jackson
Burnaman, C. Frederic, Jackson
Burns, James A. (colored), Meridian
Burns, Robert, Jr., Jackson
Busby, Arthur G., Jr., Meridian
Busby, A. G., Waynesboro
Busby, Jeff, Houston
Bush, M. M., Hattiesburg
Butler, George H., Jr., Jackson
Butler, George H., Jackson
Butler, James W., Jackson
Butler, John Sharp, Quitman
Butler, M. M., Pascagoula
Butts, Dr. A. B., University
Byars, W. G., Jackson
Byars, Wilton Vance, Bruce
Byrd, A. M., Meridian
Byrd, J. L., Jackson
Byrd, J. M., Leakesville
Byrd, T. H., Lucedale
Byrd, W. A., Newton
Cain, S. Robert, Canton
Cain, Wm. Sterling, Canton
Caldwell, Benj. M., Marks
Caldwell, J. H., Charleston
Caldwell, J. H., Jr., Charleston
Caldwell, Thomas, Cleveland
Caldwell, Thomas Eugene, Kosciusko
Calhoun, Edwin L., Mount Olive
Calhoun, Robert L., Mount Olive
Calhoun, S. K., Tylertown
Callender, Bernard, Columbia
Callon, B. C., Natchez
Cameron, Ben F., Meridian
Cameron, Chas. B., Meridian
Campbell, A. C., Tutwiler
Campbell, Geo. H., Yazoo City
Campbell, J. Edwin, Laurel
Campbell, T. H., Yazoo City
Campbell, T. H., Jr., Yazoo City
Campbell, Virginia Ruth, Yazoo City
Canizaro, Jack, Vicksburg
Canizaro, P. C., Vicksburg
Cannon, R. L., Sumner
Caradine, J. E., West Point
Carballo, J. L., Kosciusko
Carlisle, Jack B., Jr., Ackerman
Carlton, L. K., New Albany

Carlton, C. Sidney, Senatobia
Carmichael, Benj. B., Greenville
Carmichael, Gerald B., Utica
Carney, K. A., Clarksdale
Carothers, A. M., Grenada
Carr, J. M., Newton
Carr, J. V., Sect'y of State's Office, Jackson
Carter, B. F., Laurel
Carter, H. T., Laurel
Case, A. B., Waynesboro
Case, H. F., Quitman
Casey, Offa L., Dept. of Justice, Washington, D. C.
Cassidy, J. W., Brookhaven
Cassell, Chas. J., Batesville
Cassidy, J. J., McComb
Cassidy, Wm. P., Brookhaven
Catchings, O. W., Woodville
Catoe, Earl V., Jr., Greenwood
Causey, H. F., Cleveland
Cauthen, Nelson H., Canton
Chadwick, Carl A., Jackson
Chambers, Paul, Jackson
Chandler, Joe B., Jackson
Chaney, George, Vicksburg
Chapman, Asa S., Champaign, Ill.
Chatham, Gerald W., Hernando
Cheney, Reynolds S., Jackson
Chris, Raymond, Shaw
Churchwell, W. C., Leakesville
Clark, A. B., Indianola
Clark, Chas. E., Ocean Springs
Clark, E. S., Hollandale
Clark, Frank, Waynesboro
Clark, J. O., Iuka
Clark, Lester, Hattiesburg
Clark, T. A., Iuka
Clayton, Claude F., Tupelo
Clayton, Hugh N., New Albany
Clayton, S. P., Tupelo
Clements, E. C., Rolling Fork
Clements, W. H., Rolling Fork
Cleveland, Arthur T., Fulton
Cochran, Hunter K., Holly Springs
Cody, F. G., Biloxi
Cofer, Kermit R., Water Valley
Cohn, A. A., Brookhaven
Cole, James E., Lucedale
Coleman, Edward F., Purvis
Coleman, A. Jerry, Vaiden
Coleman, J. M., Aberdeen
Coleman, James P., Ackerman
Coleman, Walter D., Natchez
Collins, Elson K., Laurel
Collins, F. B., Laurel
Collins, Jeff, Laurel
Collins, Robt. W., Jackson
Collins, Ross A., Meridian
Collins, W. G., Myrtle
Colmer, Wm. M., Pascagoula
Colson, J. G., Greenwood
Condon, Wm. Patrick, Greenville
Conger, J. W., Winona
Conn, W. D., Sr., Corinth
Conn, W. D., Jr., Jackson
Conner, Claude E., Columbia
Conner, Dudley W., Hattiesburg
Conner, Mrs. Evelyn Hunt, Bay St. Louis
Conner, M. S., Jackson
Conner, R. E., Bay St. Louis
Coody, A. S., Jr., Jackson
Cook, Everett E., Gulfport
Cook, Sam C., Greenville
Cook, Virgil G., Drew
Cooley, D. B., Laurel
Cooper, A. W., Forest
Cooper, Conrad E., Tulsa, Okla. (518 Natl. Bank of Tulsa Bldg.)
Cooper, E. B., Laurel
Cooper, Forrest G., Indianola
Cooper, J. E., Purvis
Cooper, R. D., Meridian
Cooper, S. B., Philadelphia
Corban, L. C., Biloxi
Corban, R. L., Jr., Fayette
Corey, Lyle V., Meridian
Corley, W. U., Collins
Cossar, George P., Charleston
Cottrell, David, Jr., Gulfport
Coursey, B. F., Decatur
Cousins, George B., Jr., Biloxi
Covington, A. W., Quitman
Covington, J. A., Jr., Meridian
Cowan, R. C., Gulfport
Cowart, C. F., Meadville
Cox, Allen, Baldwyn
Cox, Stanley M., St. Louis, Mo.
Cox, W. A., Marks
Cox, W. H., Baldwyn
Cox, Wm. H., Jackson
Craggs, C. J., Cleveland
Crawford, Marvin, New Albany
Crawley, David E., Kosciusko
Crawley, James T., Kosciusko
Creekmore, H. H., Jackson
Creekmore, Rufus, Jackson
Creekmore, Wade H., Jackson
Crisler, Bert, Jackson
Crisler, John W., Clarksdale
Critz, Frank A., West Point
Crocker, Rowell T., Newton
Crosby, Kenneth M., West Point
Culkin, J. H., Vicksburg
Cunningham, E. Hugh, Jackson
Cunningham, F. W., Booneville
Cunningham, J. E., Booneville
Cunningham, James A., Booneville
Cunningham, J. A., Jr., Booneville
Currie, Alexander, Hattiesburg
Currie, Dan T., Hattiesburg
Currie, E. J., Jr., Hattiesburg
Currie, Geo. W., Hattiesburg

Currie, Homer, Raleigh
Currie, Neil T, Hattiesburg
Curtis, Chester Harris, Clarksdale
Cutrer, R. W., Magnolia
Dabney, F. Y., Vicksburg
Dabney, J. B., Vicksburg
Dabney, L. B., Vicksburg
Davney, Moncure, Vicksburg
Dale, R. H., Columbia
Dale, Sebe, Columbia
Dale, T. Price, Hattiesburg
Daniel, G. Odie, Starkville
Daniel, Joe H., Oxford
Darden, Tom Leslie, New Albany
Dardo, Paul R., Jackson
Davidson, Harold W., Carthage
Davis, D. P., DeKalb
Davis, Edwin D., Fayette
Davis, E. W., Port Gibson
Davis, Howard Q., Indianola
Davis, James E., Hattiesburg
Davis, James L., Jr., Louisville
Davis, Jefferson, Indianola
Davis, John E., McComb
Davis, S. F., Indianola
Davis, T. B., Columbia
Davis, T. W., Jr., Purvis
Davis, Walter Dell, Winona
Davis, W. S., Waynesboro
Daws, J. H., DeKalb
Day, Icey W., Kosciusko
Day, J. O., Tutwiler
Day, Lewis H., Laurel
Day, R. H., Decatur
Dean, Hermon, Canton
Dean, J. F., Senatobia
Deavours, Jack, Laurel
Dedeaux, O. J., Gulfport
Denman, R. D., Greenwood
Dent, E. L., Collins
Dent, J. R., Gulfport
Dent, R. L., Vicksburg
Dent, W. W., Collins
Denton, C. L., Meridian
Denton, P. L., Marks
Denton, Paul W., Marks
Diamond, Harry, Greenwood
Dinsmore, R. B., Jackson
Dixon, T. Vincent, Senatobia
Doggette, Grover, Laurel
Dore, Donald Edward, Jackson
Dossett, W. D., Beulah
Doty, Lemuel H., Biloxi
Douglas, P. Lanier, Starkville
Dovith, Melvin, Belzoni
Doxey, Hindman, Holly Springs
Doxey, Wall, Holly Springs
Drake, Carl F., Durant
Drake, Joseph Turpin, Jr., Port Gibson
Drake, J. T., Port Gibson
Dudley, Colbert, Forest
Dulaney, J. W., Tunica
Duncan, B. A., Meridian
Dunn, Allee, Greenville
Dunn, Edwin A., Meridian
Dunn, J. Thos., Jackson
Dunn, Vardaman S., Jackson
Dunning, F. S., Canton
Dye, Bradford, Charleston
Dyer, Howard, Jr., Greenville
Dyke, Herbert H., Laurel
Eager, P. H., Jr., Jackson
East, J. R., Brandon
Easterling, Albert E., Laurel
Easterling, Lamar F., Jackson
Easterling, W. R., Fayette
Eastland, J. O., Ruleville
Eastland, Oliver, Doddsville
Eaton, B. E., Gulfport
Eaton, B. E., Jr., Gulfport
Eaton, James S., Gulfport
Eddins, Jos. A., Rosedale
Edmonds, Henry, Jackson
Edwards, A. K., Mendenhall
Edwards, Allen T., Jackson
Edwards, A. M., Mendenhall
Edwards, J. P., Mendenhall
Ellis, W. A., Carthage
Ellis, Webb G., Hazlehurst
Elmer, F. W., Jr., Biloxi
Elliott, Benton W., Ripley
Engle, C. F., Natchez
Enochs, DeWitt C., Jackson
Estes, Wm. M., Enterprise
Estopinal, Wm., Gulfport
Ethridge, Eugene B., Oxford
Ethridge, F. K., Meridian
Ethridge, F. K., Jr., Meridian
Ethridge, Geo. H., Jackson
Ethridge, Geo. M., Jr., Meridian
Ethridge, W. N., Houston
Ethridge, Wm. N., Jr., Oxford
Eudy, J. E., Eupora
Evans, C. C., Laurel
Evans H. H., Gulfport
Evans, W. J., Calhoun City
Everett, Frank E., Indianola
Everett, Frank E., Jr., Jackson
Everett, Geo. A., Indianola
Everitt, Robt. D., Ruleville
Ewing, Jack H., Liberty
Ewing, T. G., Vicksburg
Fair, Charles D., Louisville
Falkner, J. W. T., Oxford
Fant, Herbert M., Sardis
Fant, Lester G., Holly Springs
Fant, Lester G., Jr., Holly Springs
Farese, John A., Ashland
Farish, H. P., Greenville
Farr, Paul H., Prentiss
Farrell, Herbert D., Taylorsville
Fatheree, J. D., Quitman
Featherstone, F. M., Indianola
Fedric, Wm. Henry, Grenada

Feduccia, Joseph C., Cleveland
Felder, Luther W., McComb
Felts, Holland O., Greenville
Finch, Henry L., Laurel
Finch, James, Hattiesburg
Finch, J. D., Iuka
Finch, J. S., Booneville
Finley, J. A., Tupelo
Fishel, E. C., Hattiesburg
Fleming, Robert E., Jackson
Flowers, Henry G., Jackson
Flowers, J. N., Jackson
Floyd, Earle N., Jackson
Floyd, Jason H., Senatobia
Floyd, J. C., Meridian
Fly, Henry A., Yazoo City
Fontaine, J. B., Pontotoc
Fontaine, W. B., Jackson
Foote, Lawrence Y., Hattiesburg
Ford, A. L., Ackerman
Ford, Evon A., Taylorsville
Ford, E. J., Pascagoula
Ford, E. J., Jr., Gulfport
Ford, J. I., Pascagoula
Forman, J. M., Indianola
Forman, Richard Brent, Natchez
Fountain, D. G., Jackson
Fox, J. H., University
Franklin, J. B., Jackson
Franklin, J. E., Jackson
Franklin, Lester C., Jr., Jackson
Franks, Donald, Booneville
Frazier, T. A., Clarksdale
Frey, M. M., Jackson
Friend, Joe N., Jackson
Frierson, John F., Columbus
Fuller, Henry H., Laurel
Fulton, Aubrey D., Jackson
Gailard, G. Rayner, Washington, D. C.
Galloway, Chas. R., Gulfport
Galloway, J. F., Gulfport
Gandy, George, Collins
Gardner, A. F., Jr., Greenwood
Gardner, Hanun, Gulfport
Gardner, Hanun B., Gulfport
Gardner, Tom M., Gulfport
Garner, A. H., Joplin, Mo.
Garner, Martin, Tunica
Garnett, C. L., Columbus
Garraway, J. T., Purvis
Garth, J. Hunter, Hazlehurst
Gartin, Carroll, Laurel
Gary, W. D., Eupora
Gaston, Chester Davis, Columbus
Gautier, H. W., Pascagoula
Gee, John B., Rolling Fork
Gee, W. F., Clarksdale
Geisenberger, W. A., Natchez
Genin, R. L., Bay St. Louis
Gerald, Eugene, Leland
Gex, Lucien M., Bay St. Louis
Gex, W. J., Bay St. Louis
Gholson, Daniel P., Holly Springs
Gholson, Mary C., Port Gibson
Gibson, C. E., Monticello
Gilbert, V. W., Meridian
Gillespie, H. B., Raymond
Gillespie, H. B., Jr., Raymond
Gillespie, R. C., Meridian
Gilliam, Alex, Jr., San Francisco
Gipson, J. Ray, Meridian
Gipson, J. V., Meridian
Glass, D. H., Kosciusko
Gober, Curtis A., Iuka
Good, V. W., Vicksburg
Goodman, F. C., Biloxi
Goodman, Joseph, Hollandale
Gordon, Chas. M., Jackson
Gordon, C. T., Liberty
Gordon, Joe D., Liberty
Gordon, L. E., Meridian
Gore, T. N., Marks
Gore, W. E., Jackson
Goss, B. J., Columbia
Goss, Roy J., Columbia
Graham, D. M., Gulfport
Graham, D. M., Jr., Gulfport
Graham, Hardy M., Meridian
Graham, J. H., Meridian
Graham, S. M., Meridian
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Greaves, J. M., Pocahontas
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Green, Garner W., Jackson
Green, Garner W., Jr., Jackson
Green, Marcellus C., Jackson
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Greene, John D., Jr., Starkville
Griffing, Homer B.
Grice, L. E., Crystal Springs
Griffith, V. A., Jackson
Guice, Claude W., Fayette
Guice, Jacob D., Biloxi
Guice, W. L., Biloxi
Guider, Ben, Vicksburg
Guy, T. A., Greenwood
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Guyton, J. D., Kosciusko
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Hammon, Kelly J., Columbia
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Hartford, Robt. W., Jackson
Hartley, T. A., Starkville
Harty, Emmett, Greenville
Harwell, J. D., Pachuta
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Hathorn, F. C., Poplarville
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Hawkins, Frank L., Vaiden
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Hendrick, Leon F., Jackson
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Hengen, Louis, Biloxi
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Holmes, G. M., Aberdeen
Holmes, Herbert, Senatobia
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Hopkins, Jos. W., Clarksdale
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Johnson, Joseph E., Batesville
Johnson, Oscar, Scott
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Johnston, Means, Greenwood
Johnston, Thos. H., Corinth
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Jones, Bernard M., Mileston
Jones, Bert H., McComb
Jones, C. J., Waynesboro
Jones, Edw. I., Bay St. Louis
Jones, H. F., Belzoni
Jones, L. Barrett, Jackson
Jones, Maurice M., Jackson
Jones, P. Z., Jackson
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Jones, W. Roger, Hazlehurst
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Kendall, James T., Jackson
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Keyer, James H., Natchez
Keys, R. Taylor, Sardis
Kier, W. H., Corinth
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Lacy, Eugene P., Booneville
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Lane, Rabian D., Jackson
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Lawrence, W. O., Calhoun City
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Lee, Percy M., Jr., Forest
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Lindsay, English, Gulfport
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Lipscomb, L. P. B., Cleveland
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Livingston, Robert, Prentiss
Livingston, W. H., Prentiss
Lobrano, J. R., Meridian

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Long, Sam P., Tupelo
Long, S. H., Tupelo
Longino, A. H., Jackson
Longino, C. S., Clarksdale
Lott, W. H., Greenwood
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Loving, B. H., West Point
Loving, J. W., Columbus
Lowe, J. T., Tunica
Lowrey, E. S., Clarksdale
Lowrey, J. T., Gloster
Lowrey, P. H., Marks
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Luckett, Semmes, Clarksdale
Lumpkin, Sam E., Tupelo
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Lyell, G. Garland, Jr., Jackson
Lyon, Gordon R., Indianola
Magee, Otho, Tylertown
Magee, Shirley, Monticello
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Magruder, J. D., Tunica
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Maples, Luther W., Gulfport
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Marsalis, O. M., Drew
Marshall, Carl, Gulfport
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Martin, G. L., Prentiss
Martin, J. D., Raleigh
Martin, L. L., Macon
Mashburn, Troy W., Brandon
Massey, Alton, Kosciusko
Mauldin, B. P., Pontotoc
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Mayfield, Barton, Hattiesburg
Mayfield, J. B., Poplarville
Maynard, Fletcher F., Clarksdale
Maynard, G. F., Clarksdale
Maynard, G. F., Jr., Clarksdale
Maynard, Wm. H., Clarksdale
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McCants, Allen, Meridian
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McClintock, Geo. Thomas, Jackson
McClure, James, Jr., Sardis
McCool, D. C., Canton
McCraine, C. H., Houston
McCraw, A. B., Philadelphia
McCully, H. E., Louisville
McCully, J. T., DeKalb
McDill, Jack, Laurel
McDonald, Edw. Leo, Fulton
McDonald, Ewell J., Jackson
McDonald, Howard A., Biloxi
McDonald, J. T., Meridian
McDonald, J. O., Union
McEachern, Clement L., Hazlehurst
McElroy, T. H., Oxford
McFarland, Ben H., Aberdeen
McFarland, J. A., Bay Springs
McFarland, Joe A., Jr., Bay Springs
McGee, Roy J., Biloxi
McGee, S. E., Hickory
McGehee, Dan R., Meadville
McGehee, Harvey, Jackson
McGehee, W. H., Bude
McGowan, M. M., Jackson
McGowan, Hardy R., Jackson
McIlwain, W. L., Greenville
McIntosh, Hugh, Jr., Collins
McIntosh, L. K., Moss Point
McIntyre, W. E., Brandon
McKay, Wm. I., Vicksburg
McKee, H. K., Picayune
McKeigney, A. F., Eupora
McKeigney, Alexander, Eupora
McKinnon, Standley D., Jackson
McLain, W. G., McComb
McLaurin, S. L., Brandon
McLean, Geo. Hite, Indianola
McLellan, Miss Pearl, Greenwood
McLeod, D. A., Mount Olive
McLeod, O. L., Pascagoula
McMorrough, G. H., Lexington
McNeil, M. S., Hazlehurst
McRaney, A. W., Magee
Melton, Miss Louise, Jackson
Melvin, Leonard B., Laurel
Merrell, G. H., Collins
Mhoon, W. L. (colored), Jackson
Miller, C. C., Jackson
Miller, Hugh Barr, Hazlehurst
Miller, H. L., Quitman
Miller, Leighton S., Clarksdale
Miller, M. V. B., Meridian
Miller, J. Wesley, Rolling Fork
Miller, W. B., Clarksdale
Milloy, G. M., Prentiss
Millsaps, R. W., Hazlehurst
Mims, S. C., Jr., Grenada
Minniece, Thos. Y., Meridian
Mitchell, A. M., Pontotoc
Mitchell, Chas. S., Tupelo
Mitchell, Ely B., Corinth
Mitchell, George T., Tupelo
Mitchell, Guy W., Tupelo
Mitchell, Guy W., Jr., Tupelo
Mitchell, Joe B., Corinth
Mitchell, Thomas, Magnolia
Mitchell, W. M., Grenada
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Mize, Joseph S., Forest
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Montgomery, Goode, Jr., Laurel
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Moore, Alfred, Hattiesburg
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Moorhead, Yerger, Greenwood
Moreland, G. C., Corinth
Morgan, C. E., Kosciusko
Morris, F. M., Hattiesburg
Morrison, H. L., Okolona
Morse, J. M., Poplarville
Morse, Stanford E., Gulfport
Morse, Wm. E., Jackson
Mortimer, John A., Belzoni
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Moss, Jos. H., Raleigh
Moss, O. F., Lucedale
Mounger, Breed O., Tylertown
Mounger, Henry, Columbia
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Munn, W. I., Jr., Newton
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Murphy, George H., Gulfport
Murphy, Wm. S., Mobile, Ala.
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Neville, Wm. deB., Meridian
Newman, Prentiss, Jackson
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Smith, George R., Pass Christian
Smith, G. Spencer, Poplarville
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Smith, Luther A., Hattiesburg
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Smith, Robt. B., Ripley
Smith, Sydney, Jackson
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Stevens, J. M., Jr., Jackson
Stevens, Phineas, Jackson
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Stirling, J. B., Jackson
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MISSISSIPPI LAW JOURNAL

VOLUME XIII
1940-1941

Published by

University of Mississippi Law School

and

Mississippi State Bar

UNIVERSITY, MISSISSIPPI
1941

GENERAL INDEX

TITLE INDEX TO LEADING ARTICLES

Administrative Policy Toward Security Issues under the Public Utility Holding Company Act—*William N. Ethridge, Jr.* 166

Another Anomaly—The Patient's Privilege—*David C. Welch* 137

Appeals and Judicial Review Under the Mississippi Unemployment Compensation Law—*Joseph A. Todd* 501

The Challenge to Traditional Law in the Rise of Administrative Law—*James M. Landis* 724

The Constitutional, Legislative and Judicial Growth of Oil and Gas Conservation Statutes—*Leslie Moses* 353

Dower Rights Under Oil and Gas Leases—*W. Lewis Roberts* 342

The Evolution of Oil and Gas Law—*Maurice H. Merrill* 281

Express Clauses in Oil and Gas Leases Affecting the Usual Implied Obligations of the Lessee—*A. W. Walker, Jr.* 292

The Headstone of the Corner: The Federal Bill of Rights—*Walter P. Armstrong* 187

Oil Conservation: Statutes, Administration, and Court Review—*Robert E. Hardwicke* 381

Oil Royalties: A Suggested Criterion—*Robert J. Blake* 307

The Right of Exoneration—*E. Kemp Cathcart* 527

The Rowan and Nichols Cases—*W. L. Summers* 417

Royalty in Louisiana—*Harriet S. Daggett* 323

Soldiers' and Sailors' Civil Relief Act of 1940—*Charles W. Taintor II and A. B. Butts* 467

AUTHOR INDEX TO LEADING ARTICLES

Armstrong, Walter P.—The Headstone of the Corner: The Federal Bill of Rights 187

Blake, Robert J.—Oil Royalties: A Suggested Criterion 307

Butts, A. B.—Soldiers' and Sailors' Civil Relief Act of 1940 467

Cathcart, E. Kemp—The Right of Exoneration 527

Daggett, Harriet S.—Royalty in Louisiana 323

Ethridge, William N., Jr.—Administrative Policy Toward Security Issues under the Public Utility Holding Company Act 166

Hardwicke, Robert E.—Oil Conservation: Statutes, Administration, and Court Review 381

Landis, James M.—The Challenge to Traditional Law in the Rise of Administrative Law 724

Merrill, Maurice H.—The Evolution of Oil and Gas Law 281

Moses, Leslie—The Constitutional, Legislative and Judicial Growth of Oil and Gas Conservation Statutes 353

Roberts, W. Lewis—Dower Rights Under Oil and Gas Leases 342

Summers, W. L.—The Rowan and Nichols Cases 417

Taintor, Charles W., II—Soldiers' and Sailors' Civil Relief Act of 1940 467

Todd, Joseph A.—Appeals and Judicial Review Under the Mississippi Unemployment Compensation Law 501

Walker, A. W., Jr.—Express Clauses in Oil and Gas Leases Affecting the Usual Implied Obligations of the Lessee 292

Welch, David C.—Another Anomaly—The Patient's Privilege 137

THE WORK OF THE MISSISSIPPI SUPREME COURT FOR THE SEPTEMBER 1939 AND THE MARCH 1940 TERMS

Appeal and Error — *James A. Blalock* 5
Contracts and Commercial Law — *James S. Eaton* 24
Criminal Law — *Oliver M. Hornsby* 30
Evidence — *L. A. Wyatt* 40
Pleading, Practice and Procedure — *I. Semmes Luckett* 54
Property — *James W. Bell, Jr. and John W. Dulaney* 60
Public Law — *Sam V. Pack* 68
Statistical Survey — *Stanny Sanders* 1
Taxation — *Joe H. Daniel* 74
Torts — *George H. Butler, Jr.* 86
Wills, Administration and Trusts — *W. G. Roberds* 102

THE WORK OF THE 1941 SESSION OF THE MISSISSIPPI LEGISLATURE — *Gerald H. Brandon* 109

PERTAINING TO THE MISSISSIPPI STATE BAR

STATE BAR CONVENTION PROCEEDINGS 659

ADDRESSES

The President's Address 661
Arthur A. Marino, *The Old Order Changes* 671
Jerome A. Cooper, *The Wage and Hour Law* 705
A. B. Butts, *The Lawyer of Tomorrow* 714
James M. Landis, *The Challenge to Traditional Law in the Rise of Administrative Law* 724
Sam M. Johnston, *The Present Duty of the Lawyer* 735
Hugh N. Clegg, *The F. B. I. and National Defense* 754

REPORTS

Committee on Public Relations 694
Study Committee 696
The American Law Institute 698
Committee on Membership 701
Complaint Commissioner 702
Mississippi Law Journal 703
Committee on Finance 703
Junior Bar Section 710
Committee on Admission to the Bar (*Jr. Bar*) 740
Committee on Legislative Drafting (*Jr. Bar*) 742
Committee on Pleading, Practice and Procedure (*Jr. Bar*) 747
Committee on Cooperation with Young Lawyers (*Jr. Bar*) 749
Committee on Public Relations (*Jr. Bar*) 750
Code Committee (*Jr. Bar*) 761

RESOLUTIONS AND DECLARATIONS OF POLICY

Recommendations by Committee on Jurisprudence and Law Reform 688
A Condemnation of Subversive Elements 692
Anti-Strike Legislation 693

Senator Pat Harrison (*Jr. Bar*) 734
En Banc Hearings by the Supreme Court 751
Publication of a New Code 751
Statement of the Newly Elected President of the State Bar 771
Statement of the Newly Elected Chairman of the Junior Bar Section 772
Audit of Accounts and Finance 777
Directory to Members of the Mississippi State Bar 782
Advance Report Presented by Code Committee of Junior Bar Section 527
Statement by Chairman of Junior Bar Section for 1940-41 120
Committees of Junior Bar Section for 1940-41 123

INDEX DIGEST

The symbols used herein are as follows: (LA) refers to Leading Articles; (BS) refers to State Bar Section; (N) refers to Notes; (RD) refers to Recent Decisions; and (*) indicates that the discussion involves Mississippi Law, though not necessarily confined thereto.

ABANDONMENT
*Effect of abandonment on interest in oil and gas in Miss. (N) 450-451
ACTIONABLE WORD STATUTE
*Truth as a defense to suit under actionable word statute (N) 264-269
ADMINISTRATIVE LAW
Administrative agencies under oil and gas conservation Statutes (LA) 382-383
Administrative policy toward security issues under the public utility holding company acts (LA) 167-186
Control of proration of oil and gas by expert commission (LA) 425
ADVERSE POSSESSION
*Does adverse possession of the surface carry with it possession of the mineral interest (N) 444-446
*Statute of limitations where the property is located governs the claim of adverse possession (N) 623
AGENCY
Consent doctrine (N) 221
*Secretary of State deemed agent of non-resident when such non-resident enters the state to do business or perform any work or service (N) 569-571
*Service of federal process on non-resident defendant in another federal district within the state (N) 218-223
*When the presence of its agent in Mississippi means that the principal is "doing business" in Mississippi (N) 551-553
APPEAL AND ERROR
*The "Theory of the Case" in Mississippi (N) 243-248
ASSAULT AND BATTERY
*Justifiable assault statute (N) 266
ASSIGNMENTS
Assignment of creditor's claim to surety (LA) 522-523
ASSUMPTION OF RISK
*Distinction between assumption of risk and contributory negligence (N) 603-612
ATTORNEYS
*Liability of estate for attorney's services rendered in administration of the estate (RD) 649-652
AUTOMOBILES
Effect of violation of highway statutes (N) 248-257
*Emergency doctrine (N) 250-251
*Evidence of negligence (N) 248-257
*Instructions to jury (N) 248-257
*Negligence per se (N) 248-257
*Pedestrians (N) 251-252
*Presumptions (N) 254-257
*Prima facie statute (N) 254-257
BILLS AND NOTES
*Are words indicating statutes of payee a condition of payment or descriptio personae (RD) 638-644
*Imposter rule (RD) 638-644
BIOGRAPHY
*Sargeant S. Prentiss as a lawyer (LA) 125-136
BURDEN OF PROOF
Who must claim patient's privilege and what must be done (LA) 149
CONFLICT OF LAWS
*Application of the Louisiana Workmen's Compensation Law in Mississippi (N) 612-619
*Application of the full faith and credit clause of the federal constitution (N) 614-615
Effect in state courts of state statutes analogous to Soldiers' and Sailors' Civil Relief Act (LA) 470-476
*Foreign statutes of limitation in the Mississippi courts (N) 619-624
*Illegal contracts in the conflict of laws (N) 632-637
*Recognition and enforcement of foreign judgment against partnership as legal entity (RD) 645-648
CONSTITUTIONAL LAW
Application of the full faith and credit clause of the federal constitution (N) 614-615
*Balancing property interests in determining the nature of nuisance (N) 226-228
*Balancing property interests in setting remedy where actionable nuisance exists (N) 236-237
Bill of Rights
—The Headstone of the Corner; The Federal Bill of Rights (LA) 187-216
—Application of Bill of Rights to Reconstruction Act (LA) 194
Constitutionality of oil and gas conservation statutes (LA) 365-379

The symbols used herein are as follows: (LA) refers to Leading Articles; (BS) refers to State Bar Section; (N) refers to Notes; (RD) refers to Recent Decisions; and (*) indicates that the discussion involves Mississippi Law, though not necessarily confined thereto.

*Does Chapter 246 of Mississippi Laws of 1941, which gives to the State courts jurisdiction over non-residents, conflict with the due process, the privileges and immunities and the equal protection clauses of the constitution? (N) 565-567
*Jurisdiction of equity to enjoin public nuisance (N) 242-243
*Limitation statute cures all defects in procedure of tax sale (N) 542-545
*Limitations statute of no force where acts to divest estate in possession (N) 537-542
Oil conservation statutes in conflict with fourteenth amendment to constitution (LA) 417-425
*Prospective curative acts (N) 545-548
*Retrospective legislation to cure void tax sale of doubtful force (N) 538-541

CONTRACTS
Contract as a basis for recovery under Louisiana Workmen's Compensation Law (N) 612
Contractual waiver (LA) 158
Distinction between illegal and invalid contracts (N) 632-637
Illegal contracts in the conflict of laws (N) 632-637
Sunday contracts (N) 635
Relief from fines and penalties for breach of contract granted by Sailors' and Soldiers' Civil Relief Act LA) 484

CONTRIBUTION
As distinguished from exoneration (LA) 520-521

CONTRIBUTORY NEGLIGENCE
Distinction between assumption of risk and contributory negligence (N) 603-612

CORPORATIONS
*Enforcement of foreign judgment against partnership as legal entity (RD) 645-648
*Enlargement of the jurisdiction of state courts over non-residents by statute (N) 559-571
*When a foreign corporation is "doing business" in Mississippi (N) 548-558

CRIMINAL LAW
*Criminal activities enjoined as nuisances N) 242-243
*Larceny by trick (RD) 270-274
*Particeps Criminis (RD) 273-274

CURATIVE ACTS
*Prospective curative statutes to cure limited defects in tax sale (N) 545-548
*Retrospective legislation to cure void tax sales of doubtful force (N) 538-541

DAMAGES
*Damages under the actionable word statute (N) 268
*Damages under contributory negligence doctrine and under assumption of risk doctrine (N) 603-612
*Damages under the Mississippi wrongful death statute (N) 571-586
*Nature of damages which may be had for injury by nuisance (N) 234-235
*Who may have damages for injuries by private nuisance (N) 232-234
*Who may have damages for injuries by public nuisance (N) 241-242

DIVORCE AND ALIMONY
*Effect of void divorce decree (N) 597-602
*What is the effect in Mississippi of a divorce decree obtained in a county not prescribed by statute (N) 587-603

DECLARATIONS
*The "Theory of the Case" in Mississippi (N) 253-248

DESCENT AND DISTRIBUTION
Dower rights under oil and gas leases (LA) 342-352

DOWER
Dower rights under oil and gas leases (LA) 342-352

EMOTIONAL DISTURBANCE
*Should the actionable word statute protect the mental security of the insulted (N) 267-269

EQUITABLE LIEN
Surety has equitable lien on contract price due his principal (LA) 523

EQUITABLE SERVITUDES
*Does a sale of land for taxes extinguish equitable servitude (RD) 653-657

EQUITY
Contribution (LA) 520
*Jurisdiction in private nuisance (N) 236-238
*Jurisdiction in public nuisance (N) 242-243
Mandatory injunction (LA) 515
Right of surety to exoneration (LA) 513-523
Subrogation (LA) 520

The symbols used herein are as follows: (LA) refers to Leading Articles; (BS) refers to State Bar Section; (N) refers to Notes; (RD) refers to Recent Decisions; and (*) indicates that the discussion involves Mississippi Law, though not necessarily confined thereto.

EVIDENCE
*Application of parol evidence rule in regard to impeachment of its own verdict by the jury (N) 258
*Are the utterances in the jury room privileged communications (N) 258
*Juror may give testimony to sustain his verdict when it is attacked by others (N) 263
*May a jury impeach its own verdict (N) 257-264
Patient's privilege (LA) 137-165
—Burden of claiming privilege (LA) 149
—Exceptions to the privilege (LA) 144-148
—Extent of privilege (LA) 148
—Provided for by statute (LA) 140
—Waiver of statute (LA) 155-162
Right of accused not to be forced to testify against himself—guaranteed by Bill of Rights (LA) 196

EXECUTION
Court may stay the execution of any judgment under Soldiers' and Sailors' Civil Relief Act (LA) 484-485

EXONERATION
Allegations necessary for exoneration (LA) 515-518
The right of exoneration (LA) 513-523

FEDERAL COURTS
*Service of process on non-resident defendant (N) 218-223

GUARDIAN AND WARD
*Capacity of infants or their guardians to execute oil and gas leases (N) 454-456
*Distinction between statutory guardianship and testamentary guardianship (RD) 650
*Liability of estate for attorney's services rendered in administration of the estate (RD) 649-652

HIGHWAYS
*Emergency doctrine (N) 250-251
*Pedestrians (N) 251-252
*Prima facie statute (N) 254-257
*Rules of the road (N) 248-257
*Statutes (N) 248-257
*Statutory violations as negligence (N) 248-257

HOLDING COMPANIES
Administrative policy under Public Utility Holding Company Acts (LA) 166-167

IMPLIED COVENANTS
Implied covenants in oil and gas lease (LA) 292-306

INJUNCTION
*When injunction available in case of private nuisance (N) 236-238
*When injunction available in case of public nuisance (N) 242-243

INSTRUCTIONS
Instruct that failure to call physician to stand raises inference of unfavorable testimony (LA) 144
*Regarding damages under the Mississippi wrongful death statute (N) 571-586

INSURANCE
Effect of Soldiers' and Sailors' Civil Relief Act on insurance policies (LA) 495-497
Unemployment Compensation Law (LA) 501-512

JUDGMENTS
Judgments "In Solido" and "Joint and Several" 645-648

JURIES
*May a jury impeach its own verdict (N) 257-264
*What to consider in assessing damages under wrongful death statute (N) 571-586

JURISDICTION
*Enlargement of the jurisdiction of state courts over non-residents by statute (N) 559-571
Federal courts have no jurisdiction to pass upon the reasonableness of a proration order of railroad commission as a violation of state statute (LA) 424
*Jurisdiction of federal court over non-resident defendant in another federal district within the state (N) 218-223
Right of claimant to appeal to courts under Unemployment Compensation Law (LA) 506
*When Mississippi court has jurisdiction of foreign corporation (N) 548-558

LIBEL AND SLANDER
*Actionable word statute as a subdivision of the action of libel and slander (N) 267

LIMITATION OF ACTIONS
*Adverse user in nuisance ceases (N) 232
*Foreign statutes of limitation in the Mississippi courts (N) 619-624
Statute of limitations interrupted by Soldiers' and Sailors' Civil Relief Act (LA) 485-488
*Tax titles—Effect of 1934 tax title statute (N) 535-548

The symbols used herein are as follows: (LA) refers to Leading Articles; (BS) refers to State Bar Section; (N) refers to Notes; (RD) refers to Recent Decisions; and (*) indicates that the discussion involves Mississippi Law, though not necessarily confined thereto.

*Limitation statute cures all defects in procedure of tax sale (N) 542-545
*Limitations statute of no force where acts to divest estate in possession (N) 537, 542

LUNACY AND INSANITY
*Capacity of insane persons or their guardians to execute oil and gas leases (N) 456-457

MASTER AND SERVANT
*Master's tort liability to servant in Mississippi (N) 603-612

MILITARY LAW
Cases involving the safety and unity of the nation (LA) 205-216
Soldiers' and Sailors' Civil Relief Act of 1940 (LA) 467-500

MORTMAIN STATUTE
Possible devices under the new mortmain law (BS) 119-120

MUNICIPAL CORPORATIONS
*Power to abate nuisances (N) 239-241
*Power to zone (N) 241

NEGLIGENCE
*Prima facie statute (N) 254-257
*Statutory violations (N) 248-257
*Violation of highway statutes as negligence (N) 248-257

NEGOTIABLE INSTRUMENTS
*Words indicating status of payee a condition of payment or discriptio personae (RD) 638-644

NEW DEAL
Cases under New Deal involving the Bill of Rights (LA) 199-205

NUISANCE
*Nuisance per se (N) 224-225
*Private nuisance (N) 226-238
*Public nuisance (N) 238-243

OIL AND GAS
*Capacity necessary to execute an oil and gas lease in Mississippi (N) 453-466
—Leases by cotenants (N) 459-461
—Leases by infants or their guardians (N) 454-456
—Leases by insane persons or their guardians (N) 456-457
—Leases by life tenant or remainderman or both (N) 457-459
—Leases by persons acting under powers (N) 464-465
—Leases of homesteads (N) 462-463
—Leases of public lands (N) 465-466
Effect of express clauses on implied obligations in oil and gas leases (LA) 292-306
—Express clauses affecting the implied covenant to develop with reasonable diligence (LA) 300-302
—Express clauses affecting the implied obligation to protest against drainage by the drilling of offset wells (LA) 302-304
—Express clauses affecting the remedies of the lessor for the breach of implied covenants (LA) 305
—Express clauses relieving a lessee from any duty to develop or to protect the premises (LA) 295-298
—Express clauses relieving the lessee from the implied duty to drill an exploratory well (LA) 298-299
—Various types of mineral conveyances giving rise to implied covenants (LA) 293-295
Evolution of oil and gas law (LA) 281-291
Dower rights under oil and gas leases (LA) 342-352
—Dower rights of the lessee's widow (LA) 347-352
—Dower rights of the lessor's widow (LA) 344-347
Growth of oil and gas conservation statutes
—The background of conservation legislation (LA) 359-364
—The doctrine of ownership in place (LA) 357-359
—The rule of capture and the offset drilling rule (LA) 355-357
—The theories supporting a state's power to enact conservation legislation (LA) 365-379
Oil conservation: statutes, administration, and court review (LA) 381-416
—Fundamentals of state statutes (LA) 382-384
—Probable defects in existing state statutes (LA) 408-414
—Similarity of existing state statutes (LA) 382
—Subjects of special interest:
Rule of Capture 384-386
Reasonable market demand 386-390
Optimum rate of flow 390-393
Economic waste 393-395
Proration
Distribution of allowable to states and among the fields and operators therein 395-401

The symbols used herein are as follows: (LA) refers to Leading Articles; (BS) refers to State Bar Section; (N) refers to Notes; (RD) refers to Recent Decisions; and (*) indicates that the discussion involves Mississippi Law, though not necessarily confined thereto.

Pooling to prevent confiscation of small or irregularly shaped tracts 401-405
Unit operation 405-408
*Property rights in oil and gas in Mississippi (N) 427-452
—Does adverse possession of the surface carry with it possession of the mineral interest (N) 444-446
—Effect of abandonment on interests in oil and gas (N) 450-451
—Nature of the landowner's interest (N) 427-434
—Nature of lessee's interest (N) 434-444
—Partition of interests in oil and gas (N) 446-450
—Taxation of the mineral interests (N) 451-452
Royalty in Louisiana (LA) 323-341
—Rent royalty (LA) 325-327
—Royalty per se (LA) 327
Rowan and Nichols cases (LA) 417-425
Suggested criterion for oil royalties (LA) 307-322
—Identification of oil royalties (LA) 317-322
—Rent and its place in the common law (LA) 308-311
—Royalty as rent (LA) 311-316

PARTICEPS CRIMINIS
See CRIMINAL LAW

PARTITION
*Partition of interests in oil and gas in Mississippi (N) 446-450

PLEADINGS
*The "Theory of the Case" in Mississippi (N) 243-248

POLICE POWER
*Police power as a basis for recovery under Louisiana Workmen's Compensation Law (N) 612-613
State's power to legislate for the protection of its natural resources based upon its police powers (LA) 363-364
*Suggested ground for exercise of jurisdiction over non-resident individuals (N) 563

PROPERTY
*Balancing property interests in determining nature of nuisance (N) 226-228
*Balancing property interests in determining remedy where actionable nuisance exists (N) 236-237

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935
Administrative policy under the act (LA) 166-186
Objectives of the act (LA) 166-167

REAL PROPERTY
Application of the law of real property to oil and gas (LA) 283-291

RULES OF CIVIL PROCEDURE FOR THE DISTRICT COURTS OF U. S. (N) 218

SECURITIES AND EXCHANGE COMMISSION
Functions, Policy, and Powers of the Commission (LA) 167-186

SERVICE OF PROCESS
*Process under statute giving State courts jurisdiction over non-residents (N) 567-571
*Service of federal process on agent of non-resident defendant in another federal district within the State (N) 218-223
*Service of process on defendant in divorce suit (N) 596-597

STATISTICS
Cases appealed under Unemployment Compensation Law (LA) 510-511

STATUTE OF FRAUDS
*Requirement that creation of trust in land be in writing (RD) 275

STATUTES
*Actionable Word Statute—truth as a defense (N) 264-269
*Construction of statute providing for patients privilege (LA) 141-155
*Construction of Mississippi statutes in regard to a foreign corporation doing business in Mississippi (N) 550-551
*Enlargement of the jurisdiction of State courts over non-resident individuals and partnerships (N) 559-571
*Foreign statutes of limitation in the Mississippi courts (N) 619-624
*Homestead statute—affect on leases of homesteads (N) 462-463
*Limitations statute of no force where acts to divest estate in possession (N) 537, 542
*Negligence per se (N) 248-257
Oil and gas conservation statutes (LA) 353-380
Oil conservation: statutes, administration, and court review (LA) 381-416
*Prima facie statute (N) 254-257
*Provisions for partition of land (N) 447

The symbols used herein are as follows: (LA) refers to Leading Articles; (BS) refers to State Bar Section; (N) refers to Notes; (RD) refers to Recent Decisions; and (*) indicates that the discussion involves Mississippi Law, though not necessarily confined thereto.

*Retrospective legislation to cure void tax sale of doubtful force (N) 538-541
*Rules of the road (N) 248-257
Soldiers' and Sailors' Civil Relief Act of 1940 (LA) 467-500
*Statutory provisions for leases of mineral rights on public lands (N) 465-466
*Taxation of mineral interests in Mississippi (N) 451-452
*Violation of, as negligence in Mississippi (N) 248-257
*Where a bill for divorce must be filed in Mississippi (N) 587-603

SUBROGATION
As distinguished from exoneration (LA) 520-521

SURETYSHIP
Exoneration (LA) 513-523
Compensated surety's right to exoneration (LA) 518-519

TAXATION
Protection given persons in military service in regard to taxes by soldiers and sailors civil relief act (LA) 498-499

TAX TITLES
*Does sale of land for taxes extinguish equitable servitude (RD) 653-657
*Effect of 1934 tax-title statute (N) 535-548

TRUSTS
*Constructive and Resulting trusts (RD) 275-280
*Purchase-money resulting trusts (RD) 275-280
*Right of creditors against the interest of the beneficiary of a trust in Mississippi (N) 624-632
*Spendthrift trusts (N) 624-632
*Trusts arising from oral promise to reconvey (RD) 275-280

UNEMPLOYMENT COMPENSATION LAW
Appeals and judicial review (LA) 501-512
Purpose of the act (LA) 501
Requirements of claimant (LA) 501

USURY
Usurious contracts and the conflict of laws (N) 633-637

VERDICTS
*Ambiguous verdicts or mistakes (N) 263
*Effect of outside influence on jury's verdict (N) 261-262
*May a jury impeach its own verdict (N) 263

WAIVER
Waiver by patient of his privilege to keep his physician from testifying (LA) 155-162

WILLS
*Liability of estate for attorney's services rendered in administration of the estate (RD) 649-652
*Rights of creditors against the interest of the beneficiary of a trust in Mississippi (N) 624-632

WRONGFUL DEATH STATUTE
*Wrongful Death Statute—Mississippi Note (N) 571-586

TABLE OF CASES

American Sand and Gravel Co. v. Rushing 227
Case v. Mills Novelty Co. 558
Cummings v. Busby 462
Dingey v. Paxton 537
Dixie Greyhound Lines Inc. v. Matthews 150
Dunn Construction Co. v. Bourne 621
Finklea Bros. v. Powell 645
Green v. Lake 238
Gulf Refining Co. v. Miller 575
Hammer v. Yazoo Delta Lumber Co. 542
Hodges v. Drew 233
Holt v. State 270
Hunter v. Hunter 146
Hutton v. Gwin 649
Jackson v. Ashley 653
Jefferson v. Bates 264
Keeton v. State 153
Leigh v. Harrison 628
Lewis v. Williams 275
Louisville & N. R.R. v. Dixon 620
McCutchen v. Blanton 226
Marx & Bensdorf, Inc. v. First Joint Stock Land Bank 557
Metropolitan Life Ins. Co. v. Evans 147
Mississippi Mills v. Smith 234
Morris v. Robinson Bros. Motor Co. 263
Moss v. Jourdan 433
Nevin v. Bailey 546
New Orleans, J. & G.N.R.R. v. Hurst 244
Norwood v. State 153
Orleans Dredging Co. v. Frazie 615
Powers v. Penny 538
Reber v. Illinois Cent. R.R. 232
Ripley v. Wilson 250
Roberts v. State 270
Rosamond v. Carol County 235
Russell Investment Corp. v. Russell 539
Sigmund v. Lundy 546
Southeastern Express Co. v. Namie 246
State v. Marshall 242
Stern v. Great Southern Land Co. 447
Stokely v. State *ex rel.* Knox, Att'y Gen. 437
Tanous v. White 275
United States v. Peoples-Pittsburgh Trust Co. 638
Ware v. State 270
White v. Weitz 255
Wiley Electric Co. v. Electric Storage Battery Co. 557
Yazoo & M.V.R.R. v. Barringer 574
Yazoo & M.V.R.R. v. Messina 159
Young v. Ashley 463

MISSISSIPPI STATUTES

MISS. CODE ANN. (1930)
Sec. 11 264
Sec. 125 239
Sec. 141 535
Sec. 353-357 454
Sec. 510 571
Sec. 513 604
Sec. 521 244
Sec. 1131 635
Sec. 1132 635
Sec. 1282 266
Sec. 1417 587
Sec. 1536 ..... 140, 148, 149, 155
Sec. 1778 462
Sec. 1779 462
Sec. 1824 636
Sec. 1930 636
Sec. 1878 455
Sec. 1879 455
Sec. 1973 636
Sec. 2000, 2001 239
Sec. 2025, 2026 239
Sec. 2117 439
Sec. 2128 625
Sec. 2287 445
Sec. 2292 457
Sec. 2311 619
Sec. 2314 621
Sec. 2320 621
Sec. 2396 239
Sec. 2406 239
Sec. 2481 241
Sec. 2868-2880 238
Sec. 2920 447
Sec. 3120 653
Sec. 3273 653
Sec. 3348 275
Sec. 3351 278
Sec. 3411 248
Sec. 3474 241
Sec. 4140 ..... 548, 561
Sec. 4164 548
Sec. 4166 548
Sec. 4167 ..... 548, 561
Sec. 4908 146
Sec. 5588 254
Sec. 6762 465

MISS. CODE SUPP. (1938)
Sec. 199 241
Sec. 292 239
Sec. 1261 239
Sec. 1769 465
Sec. 1770 465
Sec. 2760-2832 501

Laws of 1940, Chapter 246 559

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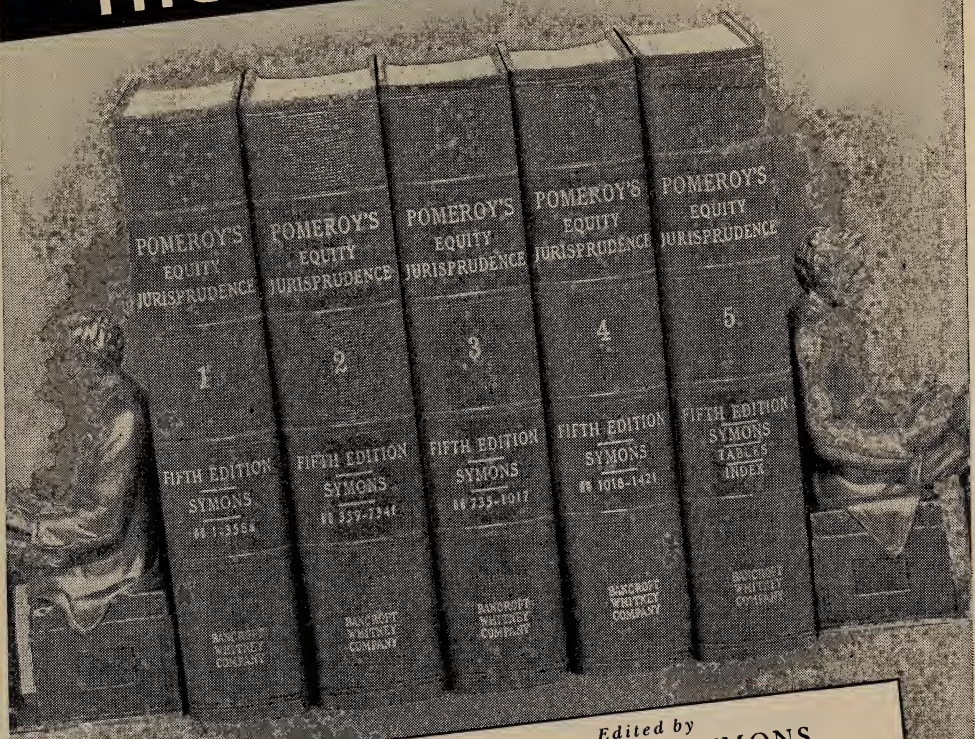

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